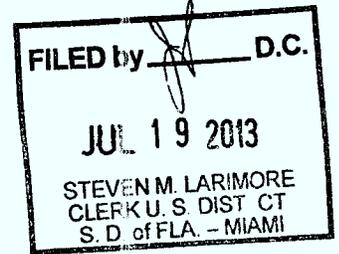


IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF FLORIDA



DARREL CUMMINGS  
Plaintiff,

Vs.

CASE NUMBER: 9: 12-CV-81413-WPB

NEW ENGLAND COMPOUNDING CENTER, et. al.,  
Defendant(s)

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**MOTION FOR LEAVE TO FILE AN AMENDED COMPLAINT**

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COMES NOW the Plaintiff, Darrel Cummings, pursuant to Rule 15(a), Fed. R. Civ. P., requests leave to file an amended complaint adding a party, to fairly litigate claims as follows:

1. Plaintiff sets forth a claim against, Dr. L. King, for eight amendment constitutional violations of deliberate indifference to Plaintiff serious medical needs.
2. Since the filing of the amended complaint. Plaintiff has discovered from his medical records that, a Dr. L. King of the corporate office has on various occasions denied Plaintiff specialized treatment and surgery for his serious medical needs to which he suffers.
3. Dr. L. King, has deliberately delayed, prolonged, and denied Plaintiff adequate treatment and surgery for diagnosed injuries by orthopedic specialist in the field . Dr. L. King, has deliberately fail to follow specialist recommendations, which has caused Plaintiff excruciating pain over a long period of time, and disability.

4. Plaintiff reiterates and incorporates the proposed paragraphs to be amended; in his second amended complaint, attached hereto as follows;

II. Defendants:

(6). Defendants Name: Dr. L. King,  
Official Position: Corporate Medical Director  
Employed at: The GEO Group, Inc.,  
Corporate Office

Mailing Address: One Park Place  
621 N.W. 53<sup>rd</sup> Street, Suite #700  
Boca Raton, FL 33487

V. Statement of Facts

(48) On October 10, 2011, Dr. L. King was deliberate indifferent to my serious medical needs for the very purpose of causing harm where she intentionally ignored orthopedic specialist, Slutsky's, recommendations of trying a course of physical therapy, and surgery, for pain.

(49) I requested surgery for pain an option afforded to me by Dr. Slutsky, while I was walking. However, Dr. L. King did not afford me this option, by denying me this treatment in the interest of the budget.

(50) Dr. L. King was deliberate indifferent to my serious medical needs by rather caused me chronic pain over a long period of time by failing to provide adequate treatment for my condition, and ignored my complaints of chronic pain.

(80) On September 5, 2012, Dr. L. King was deliberate indifferent to my serious medical needs where she denied Dr. Robert Lins, orthopedic specialist recommendations for facet injections, when pain had become excruciating and three times worse.

(82) On October 4, 2012, and do to Dr. L. King's denial of facet injections, I collapsed and had to be picked up off of the ground and taken to medical by registered nurses.

(85) On October 8, 2012, and do to Dr. L. King's denial of facet injection, the pain became even worse and paralyzing do to the epidural contamination. I then collapsed again, losing my ability to walk and had to be hospitalized in the facilities infirmary.

(86) On November 13, 2012, Dr. L. King was deliberate indifferent to my serious medical need where she denied MRI testing to evaluate my worsening condition of excruciating pain and being unable to walk.

(87) On April 23, 2013, Dr. L. King was deliberate indifferent where I was left in pain for approximately (5) months before any MRI testing was conducted. The results of this testing indicated my condition was substantially worse, deteriorating to a degree of permanent disability, needed surgery.

(138) On May 2, 2013, Dr. L. King was deliberate indifferent to my serious medical needs where she denied any further treatment and surgery while I remain in excruciating pain and confined to a wheel chair.

(139) Dr. L. King acted maliciously and sadistically for the very purpose of causing harm where adequate treatment, and surgery for excruciating pain, and my condition was intentionally delayed, prolonged and denied even after she caused my disability.

### MEMORANDUM OF LAW

#### Legal Analysis

*Palermo v. Corr. Med. Servs, 133 F. Supp.2d 1348 (Fla/S. D) 2001*(The supreme Court established the standard for eight amendment case involving the medical needs of prisoners in *Estelle v. Gamble, 429 U.S. 97, 97 S. Ct. 285 (1976)*). The court held that in order to prove an eighth amendment violation, the plaintiff must show that the defendant acted with deliberate indifference to the serious medical needs of the prisoner. *Id at 104, 97 S. Ct. at 291*. This indifference can be manifested by prison doctors or prison guards in their response to prisoner's needs who intentionally deny or delay access to medical care or intentionally interfere with the treatment once prescribed. *Id. at 104-05, 97 S. Ct. at 291.*)

Plaintiff has repeatedly alleged and the medical records will support his pain, disability and inability to walk and loss of functions in his legs to which orthopedic specialist recommendations were not followed for further treatment and surgery. Exhibit "A". See : *Taylor v. Plousis, 101 F. Supp. 2d 255, 262 (DNJ 2000)*(a medical condition which threaten

*Plaintiff's ability to walk, even on non-permanent basis, falls within the ambit of a serious medical need); Hall v. Artuz, 954 F. Supp. 90, 94 (S.D.N.Y. 1997), (Loss of functions of the legs); Kaufman v. Carter, 952 F. Supp. 520, 527 (W.D. Mich. 1996)(Inability to walk even temporary states a claim); pruil v. Gills, 372 F. 3d 218, 236 (3d Cir. 2004), holding allegations of back condition causing pain so serious it cause Plaintiff to fall down sufficiently plea a serious medical need; Jones v. Simer, 193 F. 3d 485, 492 (7<sup>th</sup> Cir. 1999)(citing refusal to follow specialist recommendations as supporting, claim of deliberate indifference); Miller v. Schoenen, 75 F. 3d 1305 (8<sup>th</sup> Cir. 1996)(expert evidence combined with recommendation from outside hospitals that were not followed supports deliberate indifference claim); Verser v. Elyea, 113 F. Supp.2d 1211, 1215 (N.D. 2000), where a prison doctor "declined to follow the recommendations of an orthopedic specialist, which he is not without even examining the patient, despite 'repeated' complaints of pain and injury," claim could not be dismissed as a mere difference of medical opinion); Starbeck v. Linn County Jail, 871 F. Supp. 1129, 1146-47 (N.D. Iowa 1994), where outside doctor had recommended surgery, prison official who failed to provide the surgery could not claim a difference in medical judgment); Lafant v. Smith, 834 F. 2d 389, 393-94 (4<sup>th</sup> Cir. 1987)(failure to provide rehabilitation therapy recommended by orthopedic specialist); Puglese v. Cuomo, 911 F. Supp. 58, 63 (N.D. N.Y. 1996), Plaintiff entered prison with a recommendation for physical therapy: one prison doctor said he would never waste the State;s money on such treatment; Hamilton v. Endell, 981 F. 2d 1063, 1066-67 (9<sup>th</sup> Cir. 1992)(prison official may not however shop around until they get a medical opinion that suits their non-medical plans for a prisoner.); Kruger v. Jenne, 164 F. Supp. 2d 1330, 1331 (S.D. Fla. 2000)(allegations that private provider denied care as a result of a policy to refuse and/or delay treatment to save money stated deliberate indifference claim against*

*corporation); Johnson v. Bowers, 884 F. 2d 1053, 1056 (8<sup>th</sup> Cir. 1989)(classifying surgery as elective does not abrogate the prison's duty, or power, to promptly provide necessary medical treatment for prisoner).*

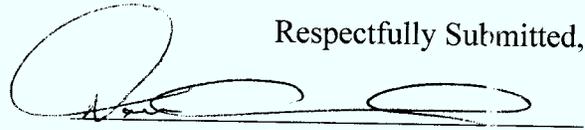
In the instant case, there is a substantial threat of irreparable injury if injunction is not granted where Defendants have totally ignored virtually all of the specialist recommendations cut-back, delayed, and denied treatment to which has harmed Plaintiff, who is still suffering in pain and confined to a wheelchair with no future hopes of receiving any further treatment, ever walking again or experiencing life without threatening condition or pain!

*McGucllin v. Smith, 974 F. 2d at 1050, 1060 (9<sup>th</sup> Cir. 1992)(Condition that "significantly affects an individual daily activities" is actionable.); Johnson v. Bowers, 884 F. 2d 1053, 1056 (8<sup>th</sup> Cir. 1989)(prison must treat a substantial disability); Monmouth County Correctional Institution Inmate v. Lanzaro, 834 F. 2d 326, 347 life-long handicap or permanent loss.); Levender v. Lampert, 242 F. Supp. 2d 821, 843 (D. OR. 2002)(The failure of medical staff to respond to ongoing complaints of chronic and debilitating pain could constitute deliberate indifference even though the prisoner regularly received medical service . . .); Shomo v. City of New York, 579 F. 3d 175, 184 (2d Cir. 2009), where policy disregarded medical recommendations for treatment, claim was not refuted by having frequently seen doctor who administrated test.); Sulton v. Wright, 265 F. Supp. 2d 292, 300 (S.D. NY 2003)(even if an inmate received extensive medical care, a claim is stated if ... the gravamen of his problem is not addressed.); Hathaway v. Coughlin, 841 F. 2d 48 (2d Cir. 1988)(claim for delay in surgery should not have been dismissed, after the surgery was performed); West v. Keve, 571 F. 2d 158, 161-62 (3d Cir. 1978)(pain while awaiting a delayed operation); Young v. Harris, 509 F. Supp. 1111, 1113 (S. D. N. Y. 1981)(Plaintiff could not walk without*

substantial difficulty and discomfort); *McBride v. Deer*, 240 F. 3d 1287, 1290-91 (10<sup>th</sup> Cir. 2001)(Loss of full function in leg constituted “a lifelong handicapped or a permanent loss); *Alsina-Ortiz v. Laboy*, 400 F. 3d 77, 83 (1<sup>st</sup> Cir. 2005)(holding guard who knew of prisoner’s “prolonged, manifest, and agonizing pain” and did nothing to get care for him could be found deliberate indifferent); *Brown v. Hughes*, 894 F. 2d 1533, 1537-39 (11<sup>th</sup> Cir. 1990); *Hewett v. Jarrad*, 786 F. 2d 1080, 1086-87 (11<sup>th</sup> Cir. 1986).

WHEREFORE, Plaintiff respectfully request that this most Honorable Court **GRANT** *Motion for Leave to Amend and Permit Proposed Second Amended Complaint.*

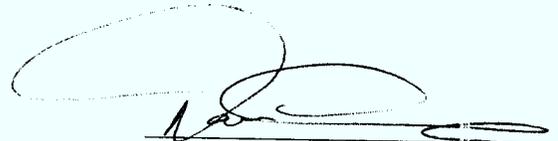
Respectfully Submitted,



Darrel Cummings Pro se  
South Bay Correctional Facility  
P. O. Box 7171  
South Bay, FL 33493

CERTIFICATE OF SERVICE

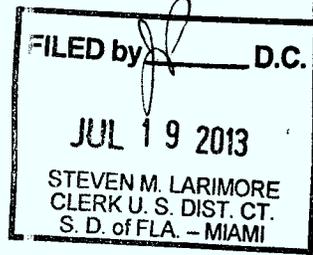
I HEREBY CERTIFY that a true and correct copy was furnished to Gregory Kummerlen Esq. 560 Village Blvd., Suite #240, West Palm BCH., FL 33409 on this 10<sup>th</sup> Day of July 2013 by Placement into the hands of Correctional Official for mailing via U.S. Mail.



Darrel Cummings DC# 088532

**SECOND AMENDED**  
**CIVIL RIGHTS COMPLAINT FORM**  
FOR USE IN ACTIONS UNDER 42 U.S.C. § 1983

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



DARREL CUMMINGS  
Inmate # 088532

Vs.

CASE NUMBER: **9:12-CV-81413-WPD**  
**DEMAND FOR JURY TRIAL**

NEW ENGLAND COMPOUNDING CENTER, CEO., BARRY CADEN,  
GEO GROUP INC., DR. L. KING, D.O.,  
MS. N. FINNISSE, MSM, HSA,  
DR. J. DAUPHIN, D.O.,  
DR. JULES HELLER, M.D.,  
OFFICER MCINTIRE, CO1,  
Defendant(s)

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ANSWER ALL QUESTIONS ON THE FOLLOWING PAGES:

**I. PLAINTIFFS:**

State your full name, inmate number, and full mailing address in the lines below. Include the name of the institution in which you are confined. Do the same for any additional Plaintiffs:

(A) Plaintiff's name: Darrel Cummings  
Plaintiff's inmate number: # 088532  
Prison or jail: South Bay Correctional Facility  
Mailing address: 600 U.S. Hwy 27  
South Bay, FL. 33493

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**II. DEFENDANTS:**

State the full name of the defendant, official position, mailing address, and place of employment. Do the same for every defendant.

(1) Defendant's name: New England Compounding Center, Ceo., Barry Caden  
Official position: Pharmaceutical Company  
Mailing address: 697 Waverly St.  
Framingham, Mass. 01702

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(2) Defendant's name: Ms. N. Finisse  
Official position: Health Service Administrator  
Mailing address: 600 U.S. Hwy 27  
South Bay, FL 33493

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(3) Defendant's name: Dr. J. Dauphin  
Official position: Physician  
Employed at: South Bay Correctional Facility  
Mailing address: 600 U.S. Hwy 27  
South Bay, FL 33493

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(4) Defendant's name: Dr. Jules Heller  
Official position: Medical Director  
Employed at: South Bay Correctional Facility

Mailing address: 600 U.S. Hwy 27  
South Bay, FL 33493

(5) Defendant's name: Officer McIntire  
Official position: Correctional Officer  
Employed at: South Bay Correctional Facility  
Mailing address: 600 U.S. Hwy 27  
South Bay, FL 33493

(6) Defendant's name: Dr. L. King, D.O.  
Official position: Corporate Medical Director  
Employed at: Geo Group Inc.  
Mailing address: One Park Place  
621 N. W. 53<sup>rd</sup> St. Suite #700  
Boca Raton, FL 33487

**III. EXHAUSTION OF ADMINISTRATIVE REMEDIES:**

NOTE: THE COURT WILL NOT ACCEPT THE COMPLAINT FOR FILING UNTIL PLAINTIFF(S) FILL OUT THE FOLLOWING REGARDING EXHAUSTION OF ADMINISTRATIVE REMEDIES. UNDER THE PRISON LITIGATION REFORM ACT OF 1995, 42 U.S.C. § 1997e (AS AMENDED), THIS COMPLAINT IS SUBJECT TO DISMISSAL IF THE CLAIMS PRESENTED HAVE NOT BEEN PROPERLY EXHAUSTED.

A. DOES YOUR COMPLAINT CONCERN EVENTS OCCURRING WITHIN THE FLORIDA DEPARTMENT OF CORRECTIONS?

Yes (  ) No (  )

[If your answer is YES, answer all the questions in this subsection.  
If your answer is NO, proceed to subsection III B.]

Exhaustion of administrative remedies pursuant to Fla. Admin. Code Chapter 33-103 is required prior to pursuing a civil rights action concerning events occurring within the Florida Department of Corrections. Any required grievance, appeals, and responses must be submitted to the Court to verify exhaustion. Each plaintiff must complete a separate Section III.

**EXHAUSTION STEPS REQUIRED:**

\* Emergency Grievance, Grievance of Reprisal, Grievance of a Sensitive Nature, Medical Grievance, Grievance Concerning Violation of Americans with Disabilities Act (ADA), Medical Grievance, Grievance Involving Admissible Reading Material, Grievance Governed by Fla. Admin. Code Rule 33-601.101 Incentive Gain Time, Grievance Involving Disciplinary Action.

- a. Formal Grievance to Warden or to the Office of Secretary (Form DC1-303)
- b. Appeal to the Office of Secretary (Form DC1-303)

\* General Grievance

- a. Informal Grievance (Form DC6-236)
- b. Formal Grievance (Form DC1-303)
- c. Appeal to the Office of Secretary (Form DC1-303)

**EXHAUSTION STEPS TAKEN:**

1. Emergency Grievance, Grievance of Reprisal, Grievance of a Sensitive Nature, Medical Grievance, Grievance Concerning Violation of Americans with Disabilities Act (ADA), Grievance Involving Admissible Reading Material, Grievance Governed by Fla. Admin. Code Rule 33-601.101 Incentive Gain Time, Grievance Involving Disciplinary Action (these are requests for Administrative Remedy or Appeal, by-passing the informal grievance step).

- a. Did you submit your grievance directly to the Warden and/or to the Office of Secretary (Form DC1-303) ?

Yes (  )                      No (  )

- b. If so, you must attach a copy of the grievance and response to this complaint form.

Yes (  )                      No (  )

- c. Were you denied emergency status or otherwise required to first file an informal grievance?

Yes (  )                      No (  )

- d. Did you have a disciplinary hearing concerning this matter?

Yes (  )                      No (  )

- e. If so, you must attach a copy of the disciplinary report and disciplinary committee's findings and decision to this complaint form.

2. Informal Grievance (Request for Interview)

- a. Did you submit an informal grievance (Form DC6-236)?

Yes (  )                      No (  )

- b. If so, you must attach a copy of the grievance and response to this

complaint form.

3. Formal Grievance (Request for Administrative Remedy or Appeal)

a. Did you submit a formal grievance (Form DC1-303)?

Yes (  ) No (  )

b. If so, you must attach a copy of the grievance and response to this complaint form.

4. Appeal to the Office of the Secretary (Request for Administrative Remedy or Appeal)

a. Did you submit an appeal to the Office of the Secretary (Form DC1-303)?

Yes (  ) No (  )

b. If so, you must attach a copy of the appeal and response to this complaint form.

B. DOES YOUR COMPLAINT CONCERN EVENTS OCCURRING WITHIN A COUNTY JAIL?

Yes (  ) No (  )

If your answer is YES, answer the following questions.

1. Is there a grievance procedure at your institution or jail?

Yes (  ) No (  )

2. Did you present the facts relating to your complaint in the prison grievance procedure?

Yes (  ) No (  )

3. If your answer is YES:

a. What steps did you take?

b. What were the results?

4. If your answer is NO, explain why not:

**IV. PREVIOUS LAWSUITS**

NOTE: UNDER THE PRISON LITIGATION REFORM ACT OF 1995, 28 U.S.C. § 1915 (AS AMENDED), NO PRISONER SHALL BRING A CIVIL ACTION OR APPEAL A JUDGMENT IN A CIVIL ACTION UNDER 28 U.S.C. § 1915 IF THE PRISONER HAS, ON 3 OR MORE

PRIOR OCCASIONS, WHILE INCARCERATED OR DETAINED IN ANY FACILITY, BROUGHT AN ACTION OR APPEAL IN A COURT OF THE UNITED STATES THAT WAS DISMISSED ON THE GROUNDS THAT IT IS FRIVOLOUS, MALICIOUS, OR FAILS TO STATE A CLAIM UPON WHICH RELIEF MAY BE GRANTED, UNLESS THE PRISONER IS UNDER IMMINENT DANGER OF SERIOUS PHYSICAL INJURY. THEREFORE, IT IS EXTREMELY IMPORTANT THAT THIS SECTION BE COMPLETED IN **THE MOST TRUTHFUL AND COMPLETE MANNER POSSIBLE**. FAILURE TO GIVE COMPLETE AND TRUTHFUL INFORMATION ABOUT PRIOR CASES CAN RESULT IN THE **DISMISSAL** OF THIS ACTION.

A. Have you initiated other actions in **state** court dealing with the same or similar facts or issues as involved in this action?

Yes ( ) No ( **x** )

B. Have you initiated other actions in **federal** court dealing with the same or similar facts or issues as involved in this action?

Yes ( **x** ) No ( )

C. If your answer to either (A) or (B) is YES, describe each action in the space provided below. If there is more than one action, describe all additional actions on a separate piece of paper, using the same format as below.

(1) Parties to previous action:

Plaintiff(s): Cummings  
Defendant(s): Harrison

(2) Court (if federal court, name the district; if state court, name the county):

Northern District of Florida

(3) Docket Number: 4:07CV 248 WCS

(4) Name of Judge: Honorable William C. Sherrill, Jr.

(5) Briefly describe the facts and basis of the action: Excessive use of force,

Deliberate indifference, Retaliation . . .

(6) Disposition (Was the case dismissed? If so, why? No  
Did you appeal? What result): Trial, Appeal No# 11-13507-AA

(7) Approximate filing date: 10/14/07, verdict rendered.

(8) Approximate disposition date:

D. Have you initiated other actions (other than those listed in (A) or (B)) in state or federal court relating to the fact or manner of your imprisonment or the conditions of your imprisonment?

Yes (  ) No (  )

E. If your answer to (D) is YES, describe each action in the spaces below. Attach additional pages if necessary.

(1) Court (if federal court, name the district; if state, name the county):

Southern District of Florida

(2) Docket Number: 06-61122 CIV-COHN/SNOW

(3) Parties to the previous action

(a). Plaintiff(s): Tabatha Thompson, Darrel Cummings

(b). Defendant(s): Progressive Auto Insurance et. al.

(4) Basis of action: Insurance claim malicious prosecution

(5) Is it still pending? Dismissed criminal case was not overturned.

Yes (  ) No (  )

**V. STATEMENT OF FACTS:**

Using numbered paragraphs, state as briefly as possible the **FACTS** of your case. Describe how each defendant was involved and what each did or did not do to give rise to your claim. Include the names of persons involved, dates, times, and places. State exactly what happened. **DO NOT make any legal arguments or cite any cases or statutes.** You may make copies of these pages and attach additional sheets of paper if needed:

(1) Approximately on March of 2010, I arrived at South Bay Correctional Facility, and initially reported to the interviewing nurse complication of back and side pains gait favoring left side, limited range movement.

(2) On April 10, 2010, Dr. Jean Dauphin was deliberately indifferent where he conducted an examination of my back and side to which abnormalities were found. Further, my medical file, history of x-rays taken on August 10, 2007, indicated spinal impressions, mild degenerative disc change at L5 S1 . . . no treatment provided.

(3) Nothing was done until August 5, 2011, based upon numerous complaint of back pains that radiated to left leg. I reported medication did not work, x-rays ordered tried to return clinoril 200mg and indocin 50mg medication.

- (4) On August 11, 2011, x-rays was done again and unlike the initial x-rays taken of the spine, here it was revealed by Dr. Robert Smalley that there was [a] bilateral defective pars interarticulars of L5 with a third-degree spondylolisthesis and degenerate disc . . .
- (5) It would seem as if the findings by Dr. Robert Smalley M.D., differed from those that were initially found by Dr. Barry Smith M.D., on August 10, 2007. It is apparent that, Dr. Smith, indicated, “. . . [A] GRADE 1 spondylolisthesis at L5. S1 level mild degenerative disc change L5 S1 . . .”
- (6) Whereas Dr. Robert Smalley indicated, “Bilateral defective pars interarticularsis of L5 with a third-degree spondylolisthesis and degenerate disc . . .” So there was a significant change in my spine.
- (7) Dr. Dauphin was deliberately indifferent to my medical needs where he was knowledgeable that this change had became or could have been causing chronic pain. However, he intentionally delayed and prolonged adequate treatment for said injury and pain for years.
- (8) Dr. Dauphin, August 15, 2011, clearly documented this result change where he stated on the chronological record of health care report that, x-ray results . . . c/o persistant pain . . . A/P 1-Chronic back pain . . . 3<sup>rd</sup> degree spondylolisthesis . . . Roboxin 750g . . . ortho referral . . .”
- (9) Dr. Bradford A. Slutsky orthopedic specialist on August 26, 2011, conducted examination recorded that, “patient has lower pains since altercation about 4 years ago. . . . He has been treated with anti-inflammatory and muscle relaxers. The pain is made worse with standing. Nothing appears to relieve it.”
- (10) Further, Dr. Slutsky found from the radiographic examination: “Ap x-rays of the spine showed a Grade 2, spondylolisthesis at L5-S1 with some significant DDD at L5-S1 . . . Impression: lower back with a Grade 2., spondylolisthesis of the spine.”
- (11) Finally, Dr Slutsky instituted a plan that, “The patient had signs of nerve impingement, which would be expected with this type of spondylolisthesis. He had conservative treatment with no improvement. I think it would be best to do an MRI, and I will see him back after that is completed. Cc: Jean R. Dauphin D.D. (South Bay Correctional Facility)”
- (12) On August 29, 2011, it is indicative from the chronological health report that Dr. Dauphin was cognizant of the increased Grade of 2., in the spondylolisthesis of the L-spine, from a previous one. Further, evaluation revealed nerve impingement, to which only conservative treatment was offered with no improvements . . . requested MRI
- (13) On September 1, 2011, I [Plaintiff] instituted a sick call request back pain problems, the pain level at that point was a level nine (9) out of ten (10) as indicated in back pain protocol sheet.

- (14) On September 2, 2011, it is apparent from the chronological report that, Dr. Dauphin discontinued chinoril 200mg., which didn't work and then prescribed ibuprofen 600mg. Awaiting MRI.
- (15) On September 16, 2011, the MRI., was conducted at Lakeside Medical Center of the Lumbar Spine, Reason: Back Pain. Dr. Scott Ruehrmund M.D., was the reading physician and found; “. . . lumbarization of S1. There is approximately 25% anterior subluxation of L5 on S1. There is decreased disc signal with degenerative marrow signal changes in the end plates . . . circumferential disc bulge and osteophyte . . . severe bilateral facet hypertrophy . . . severe bilateral foraminal narrowing.”
- (16) Further Dr. Ruehrmund, found as it relates to impressions: “at L5-S1, there is grade II (2) spondylolisthesis . . .”
- (17) On September 25, 2011, Dr. Dauphin himself read the results where it was clearly inductive that, the grade of injury escalated from a one to a two.
- (18) Additional information provided to Dr. Dauphin was lumerization of S1., 25% subluxation of L5 on S1, decreased disc signal with degenerative marrow signal changes in end plates . . . disc bulge . . . severe bilateral facet hypertrophy . . . severe foraminal narrowing . . .”
- (19) On October 10, 2011, I [Plaintiff] return to Dr. Slutsky office with MRI, initial complaint was my back is getting worse, nothing is helping. The radiographic examination, showed the spondyrolisthesis at L5 with significate spinal stenosis. Impression: low back pain with spondylolisthesis and lateral spinal stenosis.
- (20) Dr, Slutsky plan was . . . “trying a course of physical therapy and epidural injections . . . prior to proceed with surgery which would be a large fusion . . . he wants to consider surgery. That definitely is up to him . . .” cc: Jean Dauphin.
- (21) Contrary to Dr. Slutsky's recommendation that it was definitely up to me as to whether I wanted surgery or not. Dr. Dauphin was deliberately indifferent to serious medical need for surgery where he gave me absolutely no options of receiving surgery, considering the severe damage.
- (22) All following deprivations occurred under color of state law as promise by the U.S. constitution:
- (23) Dr. Dauphin acted maliciously and sadistically for the very purpose of causing harm where, he did not consider viewing the actual x-rays which clearly displayed the extent of damage which was visibly enormous and extensive considering the disc was totally out of line and nerve being pinch between disc. Of which no epidural injection

shot or physical therapy could remedy. This injury was clear and plain to where even a layman could understand its significance.

- (24) Dr. Dauphin acted maliciously and sadistically for the very purpose of causing harm where he indicated on September 10, 2011 from his chronological record that, "I question the validity of the recommendation given by the orthopedic surgeon saying that "it will not work." Contrary to this barren assertions Dr. Slutsky gave me the option of surgery.
- (25) In retrospection of this comment Dr. Dauphin also stated I said "that shit does not work." In specific regards to ibuprofen 600mg for pain, shots and physical therapy.
- (26) Dr. Dauphin acted maliciously and sadistically for the very purpose of causing harm where he still prescribed me more ibuprofen 800mg and wrote a consultation for epidural injection, despite my request for surgery an option afford to me by the orthopedic specialist slutsky.
- (27) Dr. Dauphin was deliberately indifferent to my serious medical need by intentionally delaying and prolonging surgery, which had caused unnecessary, wanton infliction of excruciating pain. Pain occurred over an extremely long period of time, which has caused permanent damage, do to his conservative form of treatment.
- (28) On September 8, 2011, I [Plaintiff] submitted grievance Log # 11-2773, ". . . In regards to unexplained and intentional delay in the treatment of serious and painful injuries and/or outright refusal to treat diagnosed injuries. Even though a court of competent jurisdiction has previously determine actual physical injuries to my lower back and side in Cummings v. Harrison, 695 F.Supp.2d 1263; 2010 U.S. Dist. Lexis 11054 . . ." Exhibit "A" (Log # 11-2773), Reiterated and incorporated in Plaintiff attachment of Grievances, Previously submitted.
- (29) Dr. Dauphin acted maliciously and sadistically for the very purpose of causing harm and causing me to suffer unnecessary and wanton infliction of pain and he retaliated against me where he lied to me about the results of the x-rays which I never actually seen at that time. He advised me accordingly from the x-ray report that I only had arthritic . . .
- (30) Contrary to Dr. Dauphine's prognosis, Dr. Slutsky on August 26, 2011 displayed an actual visual of x-rays themselves on a lighted screen which clearly showed my entire spinal column. Dr. Slutsky, explained that there was no way the therapy or shot would cure the damage.
- (31) Dr. Slutsky, further pointed out on the screen to myself, Inmate Kerr, Ofc. Howard, Ofc. Crayton, and Ofc. Petway who were all present in his office that ". . . the disc of your lower back had vertically came a good portion out of the spinal column. And do to the degree of this abnormality, your nerves which were indicated on the x-ray [screen] as lined circles connected to each disc separately, were not intacted where [my] disc had seemingly came out in my lower back. The nerves are trapped between disc."

- (32) From my view of x-rays the lower portion of my spine didn't seem connected to the upper portion which shocked everyone. Especially me actually seeing the extent of injury with my own eyes, and the damage was far worse than the big medical terms that were used on x-ray reports/which I didn't understand.
- (33) Dr. Dauphin acted maliciously and sadistically for the very purpose of causing harm and suffering and he retaliated against me for the submission of grievance where my nerves (line circle) were trapped between the disc and being pinched which explained the chronic and severe pain that I was experiencing." To which he delayed treatment.
- (34) Dr. Slutsky asked me, "what type of medication did Dr. Dauphin prescribe? I informed him that it was ibuprofen 600mg and sulindac [200mg]. He stated he didn't think this would do much for the type of injury I had or pain."
- (35) Here it should be pointed out that Ofc. Howard and Ofc. Crayton had to strenuously assist me in and off the van, and during transport to orthopedic office in Okeechobee, Fl., do to chronic and severe pain that I was in at that time.
- (36) Dr. Dauphin acted maliciously and sadistically for the very purpose of causing harm which caused me to suffer unnecessary and wanton infliction of pain and he retaliated against me where he never even considered a consult for surgery or that specialist would provide me with a medication or treatment that would relieve chronic pain at that time.
- (37) Dr. Dauphin was deliberately indifferent to my serious medical needs and he retaliated against me where he stated to me that, he didn't see why I was in pain all of a sudden when I had injury for sometime" Had Dr. Dauphin been paying attention to the previous x-rays, and current x-rays to include MRI,. He would have discovered that the injury was progressing. He further accused me of lying and wanting narcotics.
- (38) Dr. Dauphin acted maliciously and sadistically for the very purpose of causing harm and retaliated against me where, he was denying me surgery and adequate treatment because despite all the examinations and tests conducted by specialist in the field, he didn't believe I was in pain. So he intentionally delayed and prolonged surgery and adequate treatment to my detriment , dismay, and causing me to suffer extensively, and excruciatingly.
- (39) Dr. Dauphin was deliberately indifferent to my serious medical needs and retaliated against me where it took approximately two months before I went back to Dr. Slutsky's office on October 10, 2011 for only consult and no treatment all this time I was in pain , constantly making complaints. This has not only been physically exhausting, but also psychologically draining. Essentially where no surgery is being consulted or adequate medication provided for pain.
- (40) Nevertheless, when Dr. Slutsky and I discussed options for treatment, the x-rays were very much a part of that discussion. From the outset I requested surgery from what I

sough with my own eyes. Dr. Slutsky stated that most likely that's what I will need to fix it.

- (41) Dr. Dauphin was deliberately indifferent to my serious medical needs and retaliated against me where I could not get anything for relief at that time, as it was not authorized again by Dr. Dauphin. Dr. Slutsky informed me that he had adequate medication for pain but had to be authorized by the facility who refused to give it.
- (42) In regards to Dr. Slutsky's recommendation of: 1. physical therapy; 2. Epidural injections, and; 3. Surgery by fusion of spine.
- (43) Dr. Dauphin acted maliciously and sadistically for the very purpose of causing harm and retaliated against me where, out of anger he advised me that "surgery was out of the question because the budget was not going to allow it." Thus, I was denied imminent surgery.
- (44) In response to grievance Log# 11-2773, Ms. N. Finisse, MSM., the health Service Administrator of S.B.C.F., On September 21, 2011 clearly stated that;
- a. "Record indicate you were seen by the specialist on October 10, 2011 for back pain. It was recommended you should try course of physical therapy, epidural injections before considering surgery. You were seen by Doctor [Dauphin] on 11-10-11 which increased your ibuprofen from 600mg to 800mg., and wrote a consultation request for epidural injections. You are scheduled for an evaluation for epidural injection." Grievance Denied for Imminent Surgery.
- (45) Ms. N. Finisse, was deliberate indifferent to my serious medical needs and acted maliciously and sadistically for the very purpose of causing harm where she intentionally ignored where it states, 1. Recommended you should try course . . . , and 2. Before considering surgery. This language provided an option afforded to me by Dr. Slutsky. However, in the interest of the budget I was denied imminent treatment, via surgery.
- (46) There was absolute noting to consider before surgery. Because I had made my decision for surgery upon viewing of x-rays immediate which was definitely up to me, not Ms. Finisse, as indicated by Dr. Slutsky.
- (47) Ms. Finisse M.S.M. was deliberately indifferent to my serious medical need and retaliated against me for filing grievances by causing excruciating pain over a long period of time. A pain that in its ordinary meaning surely includes a notion of psychological harm, and cruel and unusual punishment.
- (48) On October 10, 2011, Dr. L. King was deliberate indifferent to my serious medical needs for the very purpose of causing harm where she intentionally ignored

orthopedic specialist, Slutsky's, recommendations of trying a course of physical therapy, and surgery, for pain.

- (49) I requested surgery for pain an option afforded to me by Dr. Slutsky, while I was walking. However, Dr. L. King did not afford me this option, by denying me this treatment in the interest of the budget.
- (50) Dr. L. King was deliberate indifferent to my serious medical needs by rather caused me chronic pain over a long period of time by failing to provide adequate treatment for my condition, and ignored my complaints of chronic pain.
- (51) Contrary to Ms. Finisse's response on grievance log# 11-2773 submitted on September 8, 2011 in direct regards to receiving treatment for back pains. In Grievance Log# 11-3042, Ms. Finisse directly contradicted herself where she stated in this response that, "Your sick call visit on 11-8-11 for joint pains, is not a condition that you are being seen in chronic clinic or initiated by a physician. Exhibit "B" (Log # 11-3042).
- (52) Dr. Dauphin, in Grievance Log# 1112-405-042 supported this lie even where nurse Dixon RN., indicated on the chronological record of health care report that on 11-8-11, 0955am, "Sick call for c/o back/leg pains concern about follow up s/p ortho. Consult . . ." Exhibit "C" (Log # 1112-405-042).
- (53) The secretary for the Department of Corrections in Grievance Log# 12-6-02095 "determined that the response given by Dr. Dauphin on 1-5-12 appropriately addresses the issue [I] presented." It's obvious they never investigated grievance, based on officers statements. Exhibit "D" (Log #12-6-02095).
- (54) ~~(50)~~ Ms. Finisse acted maliciously and sadistically for the very purpose of causing harm and retaliated against me where the issue is the cost of providing surgery which is the adequate treatment for condition, so she's prolonging adequate treatment at the expense of human torture which is equivalent to cruel and unusual punishment.
- (55) ~~(51)~~ I wasn't seen by Dr. Robert Lins M.D. orthopedic specialist, until 11-22-11, the specific recommendation was for epidural injections in the consultation requested by Dr. Dauphin. Again authorization for pain medication was not authorized by him.
- (56) Dr. Dauphin was deliberately indifferent and retaliated against me where he did not include MRI for examination, and my blood pressure was 176/102 caused by his increase of ibuprofen 800mg, which neither helped pain. I was admitted into the infirmary until pressure dropped. The trip to Dr. Lins office in West Palm Beach was a total waste and had to be rescheduled while I waited in pain.
- (57) On 11-28-11, I [Plaintiff] submitted specifically to the Warden Grievance Log# 11-1088 in regards to Ms. Finisse's response to Grievance Log# 11-2773. The Warden referred grievance back to Ms. Finisse and even though I had made numerous complaints of chronic and severe pain, and that the medication was not working were totally being

ignored by Ms. Finisse and Dr. Dauphin. Ms. Finisse was deliberate indifferent and retaliated against me where she did absolutely nothing to prevent further damage and pain.

- (58) By the intentional prolonging and delaying of adequate treatment, Ms. Finisse, and Dr. Dauphin has cause me to suffer by the unnecessary and wanton infliction of pain which has become 3x worse than before, and injury caused to deteriorate. Exhibit "E" (Log #11-1088).
- (59) Dr. Robert Lins knew from his own x-rays taken, and MRI., that more extensive and imminent treatment was needed. Also which was conveyed to him by Dr. Slutsky.
- (60) Dr. Lins, advised me that epidural injections would not work on my condition, and was not a cure for the pinch nerves in my back, but it may provide temporary relief. However, he never explain the adverse effects of that relief were the pain came back 3x worse, and I was infected in the process with contaminated medication.
- (61) Ms. Finisse and Dr. Dauphin was deliberate indifferent and retaliated where they totally disregarded proper procedure, and did absolutely nothing to prevent further pain and damage to existing injury which has crippled me and put me in a wheel chair.
- (62) Ms. Finisse, and Dr. Dauphin acted maliciously and sadistically for the very purpose of causing harm where, they omitted from there responses' the facts that the specialist I seen on 10-10-2011 was Dr. Slutsky who also specifically stated that, "... the patient says he wants to see a spine surgeon. He wants to consider surgery. That definitely is up to him, but that is an option. . ."
- (63) Ms. Finisse, and Dr. Dauphin were deliberately indifferent to my serious medical need and retaliated against me where they exercised an unauthorized use of authority in accepting the former portions of Dr. Slutsky's report to their benefit.
- (64) However, they rejected the later portions of Dr. Slutsky's report to my dismay. Essentially, where in this case proper treatment would require a large fusion which could be substantially expensive to their budget. But that does not negate the option that was afforded to me of surgery by the specialist from the same report they adopted.
- (65) In further appeal of this particular grievance for imminent treatment, the secretary, Dept. of Corr., in Grievance Log# 12-6-01054, Dated 1-19-12 stated, "... it is determined that the response made to you by Dr. Dauphin on 12-21-2011 appropriately addresses the issues you presented . . . it is the responsibility of your Chief Heath Office [Ms. Finisse] to determine the appropriate treatment regimen for the condition you are experiencing . . ." Exhibit "F" (Log #12-6-01054).
- (66) Thus, in full exhaustion of administrative remedy. It would seem as if Dr. Dauphin, and Ms. Finisse's response's are binding by the secretary for the Dept. of Corr.

Establishing epidural injections and physical therapy prior to surgery. "The established treatment plan"

- (67) On 2-7-12 I submitted Grievance Log# 12-0293 in regards to further delay now of established treatment of which I'm still consistently suffering for approximately 4½ years since injury had been diagnosed, and six months since injury was discovered to have gotten substantially worse. Exhibit "G" (Log #12-0293).
- (68) At this point it was clear that the injury to back, side legs were progressing, and condition deteriorating do to intentional delay and prolonging, which causes excruciating pain. To be left unsubstantially treated at this point is the equivalent of human torture which could only be deemed as cruel and unusual punishment.
- (69) But it did not end here, the first phase of the established treatment, of a course of epidural injections were not conducted by Dr. Robert Lins M.D. orthopedic specialist, until approximately April 11, 2012, August 1, 2012, and August 22, 2012. This was approximately an entire year after being re-diagnosed on 8-11-2011 while I suffered in excruciating and persistent pain.
- (70) Dr. Robert Lins on 11-22-2011, Dr. Lins informed me, and reported from his own x-rays taken, and MRI that, "the spine showed a Grade 2. Spondylolisthesis, at L5-S1 with significant DDD at L5-S1 . . ." Id. x-rays, and MRI.
- (71) Dr. Lins, reported that "[I] had signs of nerve impingement which would be expected with this type of spondylolisthesis." He further, explained that, the movement of my disc was causing my nerves to be pinched in between which made my complaints of chronic and severe pain very realistic.
- (72) Dr. Lins reported that, "there [was] lumbarization of S1. There is approximately 25% anterior subluxation L5 on S1. The decreased disc signal with degenerative marrow signal changes in the end plates . . ."
- (73) Dr. Lins reported that, "there [was] circumferential disc bulge and osteophyte . . . severe bilateral facet hypertrophy . . . severe forminal narrowing . . ." as he explained.
- (74) And Dr. Lins reported that, ". . . the spondylolisthesis at L5 showed significate lateral spinal stenosis . . ."
- (75) Dr. Lins, as the specialist in the field where even though he reported my critical condition and the potential that if left untreated it could paralyze me. Ms. Finisse, Dr. Dauphin, and Dr. Heller should have equally knew that the epidural injection would not remedy my condition or pain.
- (76) The fact of the matter is even though Dr. Lins informed them that the epidural injections would only provide temporary relief from pain, of which I disputed while Ofc. Alvarez, Ofc. Petway, Ofc. Crayton were present. In that, visualizing the x-rays he displayed. My position was, "you need to fix this! Dr. Slutsky recommended fusion "

- (77) Dr. Lins further stated, "He could not fix it without authorization of the facility. Dr. Lins is the orthopedic specialist and could have had the fusion to be conducted where he reported the damage to the facility that my spine was to extensive for shots to be of any substantive value.
- (78) Dr. Lins had to leave this extensive damage unsubstantially treated where he knew it would cause further excruciating pain, and crippling results. Because Ms. Finisse, Dr. Dauphin, and Dr. Heller would not authorize surgery or adequate pain medication.
- (79) Dr. Lins conducted follow up examination on August 31, 2012 at which time I was still unusually numb from the last shot I took on August 22, 2012 which was unusual because the other two previous shot never numb me pass three days and the pain would return worse every-time. Ofc. Alvarez and Ofc. Amazon almost had to carry me to the after the shot, my feelings in my legs were gone.
- (80) On September 5, 2012, Dr. L. King was deliberate indifferent to my serious medical needs where she denied Dr. Robert Lins, orthopedic specialist recommendations for facet injections, when pain had become excruciating and three times worse.
- (81) Approximately on 9-5-2012, I was seen by Dr. Jules Heller, the Medical Director was deliberately indifferent to my serious medical need despite his expressed indifference. I told him that, my back and spinal pains had become much worse. Further, that I had normally felt the pains in my legs not directly in my spine. Now I felt extreme pain all over, but receive no imminent treatment for pain he ignored me.
- (82) On October 4, 2012, and do to Dr. L. King's denial of facet injections, I collapsed and had to be picked up off of the ground and taken to medical by registered nurses.
- (83) Thereafter, I started experiencing very unusual symptoms that I had not experience previous; for instance, headaches, left-side of spine back pain, direct pain from my spine generating around both sides of my lower body, and legs.
- (84) Even though, I was already experiencing pain in my left leg. This was different, I am now experiencing excruciating pain in both legs and spine. As if that wasn't enough, what's even more severe the pain in my ankles is unlike anything that I ever felt. It seems as if they were engulfed in flames from my ankle to my knee. For which I am continually suffering greatly in pain, and currently temporary disabled.
- (85) On October 8, 2012, and do to Dr. L. King's denial of facet injection, the pain became even worse and paralyzing do to the epidural contamination. I then collapsed again, losing my ability to walk and had to be hospitalized in the facilities infirmary.
- (86) On November 13, 2012, Dr. L. King was deliberate indifferent to my serious medical need where she denied MRI testing to evaluate my worsening condition of excruciating pain and being unable to walk.

- (87) On April 23, 2013, Dr. L. King was deliberate indifferent where I was left in pain for approximately (5) months before any MRI testing was conducted. The results of this testing indicated my condition was substantially worse, deteriorating to a degree of permanent disability, needed surgery.
- (88) Officer McIntire was deliberately indifferent to my serious medical need which caused unnecessary and wanton infliction of pain where on 10-4-2012, at 8:45, when I collapsed from excruciating and unbearable pain. G-Dormitory Sergeant Scott, notified medical of an emergency. Officer McIntire, would not notified medical after I declare an emergency, she then forced me to move out of the chair and I fell flat into a steel door.
- (89) Officer McIntire acted maliciously and sadistically for the very purpose of causing harm where upon being told that I had recent surgery something was wrong. She nefariously ordered me to get the hell out of her chair. When I told her I couldn't stand or walk, she stated, "I don't give a damn, get your "ass" out of my chair." I fell into a steel door aggravating injury and causing more pain, as she watched with her hands on her hips.
- (90) I later was picked up by Nurse(s) Jones, Bennet, and Trimble, placed into a wheel chair and taken to the medical infirmary. I was not treated or seen by Dr. Heller until 1:30 pm., 4½ hours I sat in pain. Contrary to Ofc. McIntire's response in Grievance Log# 12-2102 (she never notified medical of emergency). Exhibit "H" (Log #1210-2102, 1211-405-006 (Sgt. Scott notified medical).
- (91) On January 9, 2013, Officer McIntire stated, that she was not aware of Plaintiff's condition at the time or that another officer advised him to sit in a chair. Further, McIntire stated, that when Plaintiff advised her of his condition after he attempted to get up and walk and could not. She claim she was not deliberate indifferent because she did not have full knowledge. See "Here Attached" Exhibit "N" Grievance Log# 12-6-40195, Belatedly responded to after submission of Plaintiff's Civil Complaint.
- (92) Officer McIntire was deliberate indifferent to my serious medical needs, and exhibited cruel and unusual punishment where these allegation are refuted: In attached Initial Grievance Log# 12-2102, dated October 4, 2012, and responded to on October 26, 2012 Plaintiff specifically informed Officer McIntire before he was ordered to get up and fell into a steal door, aggravating injury and excruciating pain.
- (93) Officer McIntire was deliberate indifferent to my serious medical needs, and exhibited cruel and unusual punishment where she stated "McIntire contrary to declared emergency re-ordered me to get the hell out of her chair" when [I] informed [Her] . . . I

couldn't walk or stand maybe do to previous surgery. She nefariously stated, "she didn't give a damn and get your ass out of my chair . . ."

- (94) Further, Her response to grievance" was [she] followed protocol in notifying medical of your [Plaintiff] emergency you received treatment in a timely manner . . ." Id attached Grievance Log# 12-2102.
- (95) Here, Officer McIntire never stated she was not aware of my condition, was advised after I couldn't walk or that she did not have full knowledge. However, Officer McIntire concedes that I had an emergency, and she notified medical in a timely manner.
- (96) Officer McIntire was deliberate indifferent to my serious medical needs, and exhibited cruel and unusual punishment where, the fact of the matter is Officer McIntire did not follow protocol, essentially where she did not notify medical of Plaintiff's emergency which interfered, delayed and prolonged treatment in a timely manner.
- (97) Because Officer McIntire statement here that, she notified medical is directly contradicted by attached Grievance Log# 1211-405-006 where in pertinent part Sgt. Scott stated that ". . . he notified medical . . ." Thus, she failed to respond to a known medical problem.
- (98) It is clearly evident that not only was Officer McIntire, uncandid with the exhaustion of this administrative proceedings before resulting to judicial resolution. More importantly, she was deliberate indifferent to Plaintiff's known and serious medical needs, and exhibited cruel and unusual punishment. Because she interference and delay of treatment and caused unnecessary and wanton infliction of pain by the serious aggravation of Plaintiff's injury.
- (99) Plaintiff was ordered, "to get the hell out of her chair" and when she was advised by Plaintiff that he could not walk or stand do to previous surgical procedural (of epidural injection). She became so grossly incompetent, inadequate, and excessively indifferent to be intolerable to the fundamental fairness of human decency.
- (100) In regardless disregard of a substantial risk of harm, Officer McIntire stated after being informed of condition and previous surgery that "[she] didn't give a damn and to get my butt (ass) out of her chair." Id. Grievance Log# 2102.
- (101) Dr. Heller maliciously and sadistically for the very purpose of causing harm has previously shown a nefarious attitude towards me, and surgery to elevate the painful symptoms I'm experiencing and repairing my lower spinal column. By stating, "He didn't think it would help me," as if his recommendation for epidural injections was a

better solution. The fact of the matter is the epidural injections did not work; however, the pain became worse.

- (102) Dr. Heller, was deliberately indifferent in that he has misdiagnosed any adequate treatment, has made numerous inadequate prescriptions for pain. He has made numerous insufficient prognosis for recommended treatments, and consults all in a effort to delay and prolong adequate treatment, which has caused paralyzing damage and put me in a wheelchair.
- (103) Dr. Heller maliciously and sadistically for the very purpose of causing harm, denied plan for diagnosed injury and course of treatments recommended by Dr. Slutsky on 10-10-2011. The second phase of that treatment plan was, "Physical therapy prior to proceeding with surgery, which would be a large fusion."
- (104) But it should be pointed out here that I absolutely disagreed with the delay and prolonging of surgery do to the critical stages of my condiction, which has paralyzed me, and caused me to suffer the equivalent of human torture, which could only be deemed as cruel and unusual punishment.
- (105) For Dr. Heller denied the remaining established course of treatments to remedy the condition and pain, is further an act that is maliciously and sadistically for the very purpose of causing more pain and permanent disability.
- (106) Dr. Heller superseded Dr. Dauphin and it was then Dr. Heller's responsibility to honor, appropriately address, and submit consultation for established treatment plan, to imminently attempt to relieve chronic and severe pain, and remedy condition from deterioration.
- (107) However, the first epidural injection wasn't conducted until approximately April 11, 2012, last conducted August 22, 2012. It took approximately 8 months for Dr. Heller to complete this inadequate prognosis, and misdiagnosed source of treatment that did not elevate pain or remedy condition, which was deliberately indifference, and cruel and unusual punishment.
- (108) By Dr. Heller maliciously and sadistically for the very purpose of causing harm by intentionally prolonging and delaying of the proper treatment for diagnosed condition. Dr. Heller was deliberately indifferent to my serious medical need for surgery where he knew or should have known that, to leave this substantive injury unsubstantially and timely treated, there would be a potential risk of being paralyzed or permanent damage.
- (109) Dr. Heller's caused unnecessary and wanton infliction of pain by his actions and/or inactions has caused me to suffer unnecessary and wanton infliction of pain which is three times worse than when treatment begun. Even moreso, the adverse affects have virtually paralyzed me from the waist down.

- (110) These facts bring into question: The nationwide outbreak of fungal meningitis of the tainted epidural injections for back pains that was distributed by New England Compound Center, to various States to included Florida, to which a number of illness from various symptoms were recorded and actual deaths from this disease.
- (111) (105) The above mention concerns were appropriately address in a emergency Grievance Log# 1210-405-031 refered to Ms. Finisse dated 10-7-2012, requesting to contact the CDC Office, urgent. Do to unusual and excruciating pain that caused my clasped. Essentially, since I had taken the shots during the contaminating period. Ms. Finisse and Dr. Heller was deliberately indifferent here where she took no action; moreso, even he ignored a substantial risk of death.
- (112) 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. Due to my 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.
- (113) 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.
- (114) (108) Ms. Finisse and 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, their actions and/or inactions has lead to me being temporary disabled which will inadvertently be a permanent disability due to rate of deterioration.
- (115) Ms. Finisse and Dr. Heller, is deliberately indifferent to my serious medical need which causes unnecessary and wanton infliction of pain where, they 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.
- (116) Ms. Finisse and Dr. Heller, is deliberately indifferent where they 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.
- (117) Ms. Finisse and 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.

- (118) 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.
- (119) Ms. Finisse and 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.
- (120) 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.
- (121) 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.
- (122) 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.
- (123) 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.
- (124) 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."
- (125) 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.
- (126) I did write it up, by the submission of Grievance Log# 1210-405-031, which are referencing the above mention facts. However, the response on 10-9-2012 was just as malicious and sadistic for the very purpose of causing harm where they did nothing, took no action. This grievance was totally ignored. Exhibit "I" (Log #1210-405-031, 12-6-34642). He knew of complaint.