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14  
15 UNITED STATES DISTRICT COURT  
16 NORTHERN DISTRICT OF CALIFORNIA

17  
18 JEFFREY B. NORSWORTHY (a/k/a  
MICHELLE-LAEL B. NORSWORTHY),

Case No. 3:14-cv-00695-JST

**FIRST AMENDED COMPLAINT**

19  
20 Plaintiff,

21 vs.

22 JEFFREY BEARD; A. NEWTON; A.  
ADAMS; LORI ZAMORA; RAYMOND  
23 J. COFFIN; MARION SPEARMAN;  
DAVID VAN LEER; JARED LOZANO;  
and DOES 1-30,

24  
25 Defendants.

1 Plaintiff Michelle-Lael B. Norsworthy (a/k/a Jeffrey B. Norsworthy) (“Plaintiff” or  
2 “Norsworthy”) for her Complaint against Defendants Jeffrey Beard, A. Newton, A. Adams, Lori  
3 Zamora, Raymond J. Coffin, Marion Spearman, David Van Leer, Jared Lozano and Does 1-30,  
4 alleges as follows:

### 5 NATURE OF THIS ACTION

6 1. Plaintiff brings this civil rights action under 42 U.S.C. § 1983 to seek prospective  
7 injunctive relief based upon Defendants’ failure to provide Plaintiff with medically necessary  
8 surgery in violation of the Eighth and Fourteenth Amendments to the United States Constitution  
9 and failure to allow Plaintiff to pursue a legal name change also in violation of the Eighth and  
10 Fourteenth Amendments.

### 11 PARTIES

12 2. Plaintiff Michelle-Lael Bryanna Norsworthy is a citizen of California currently  
13 housed at Mule Creek State Prison in Ione, California by the California Department of  
14 Corrections and Rehabilitation (“CDCR”). Plaintiff has been incarcerated under the custody of  
15 the CDCR since on or around April 15, 1987. Plaintiff is a transsexual woman – an individual  
16 whose gender identity is different from the male gender assigned to her at birth, who requires  
17 medical treatment to better conform her body to that gender identity. She experiences severe  
18 dysphoria and distress resulting from the incongruence between her male physical features and  
19 her female gender identity. Plaintiff has been living as a female since the mid-1990s and has  
20 received feminizing hormone therapy and chemical castration treatments since 2000. As a result,  
21 plaintiff is a biological female based upon her estrogen and testosterone levels, yet Defendants  
22 have refused to allow Plaintiff to obtain medically necessary surgery to further her treatment.

23 3. Upon information and belief, Defendant Dr. Jeffrey Beard (“Beard”) is a resident  
24 of California. Since his appointment by Governor Edmond G. Brown, Jr. on December 27, 2012,  
25 Beard has served as Secretary of the CDCR. In his position as Secretary, Beard has ultimate  
26 responsibility and authority for the operation of the CDCR, including the administration of health  
27 care and the execution of policies governing medical care and name changes.

28 4. Upon information and belief, Defendant A. Newton (“Newton”) is a resident of

1 California. Upon information and belief, at all relevant times, Newton was an agent or employee  
2 of the CDCR with the title “SRN II” and was charged with evaluating certain appeals of prisoner  
3 health care issues with the authority to grant or deny the relief requested in the appeals. Upon  
4 information and belief, A. Newton is currently employed by the CDCR at Salinas Valley State  
5 Prison in Soledad, California.

6 5. Upon information and belief, Defendant A. Adams (“Adams”) is a resident of  
7 California. Upon information and belief, at all relevant times, Adams was an agent or employee  
8 of the CDCR with the title “CME” and was charged with evaluating certain second level appeals  
9 of prisoner health care issues with the authority to grant or deny the relief requested in the  
10 appeals. Upon information and belief, A. Adams is currently employed by the CDCR at the  
11 Correctional Training Facility in Soledad, California.

12 6. Upon information and belief, Defendant Lori Zamora (“Zamora”) is a resident of  
13 California. Upon information and belief, at all relevant times, Zamora was Chief of the CDCR  
14 Office of Third Level Appeals-Health Care with the authority to grant or deny the relief requested  
15 in the appeals.

16 7. Upon information and belief, Defendant Raymond J. Coffin (“Coffin”) is a  
17 resident of California. Upon information and belief, at all relevant times, Coffin was the Chief  
18 Psychologist at the California Substance Abuse Treatment Facility and State Prison in Corcoran,  
19 California and an employee of the CDCR charged with evaluating the merits of certain inmates’  
20 claims of inadequate medical care.

21 8. Upon information and belief, Defendant Marion Spearman (“Spearman”) is a  
22 resident of California. At all relevant times, Spearman was the Warden for the California  
23 Correctional Training Facility located in Soledad, California, at which facility Plaintiff was  
24 housed when the CDCR decisions at issue here were made. As warden, Spearman is responsible  
25 for reviewing and approving or denying an inmate’s request for a legal name change.

26 9. Upon information and belief, Defendant David Van Leer (“Van Leer”) is a  
27 resident of California. Upon information and belief, at all relevant times, Van Leer was an  
28

1 Appeals Examiner for the CDCR with responsibility for reviewing and approving or denying the  
2 appeal of the denial of an inmate's request for a legal name change.

3 10. Upon information and belief, Defendant Jared Lozano ("Lozano") is a resident of  
4 California. Upon information and belief at all relevant times, Lozano was the Chief of the Office  
5 of Appeals for the CDCR with responsibility, among other things, for reviewing and approving or  
6 denying the appeal of the denial of an inmate's request for a legal name change. Upon  
7 information and belief, Lozano is currently employed by the CDCR at the California Health Care  
8 Facility in Stockton, California.

9 11. Does 1-30 are unnamed agents or employees of CDCR that participated in the  
10 decision to deny Plaintiff medical care and/or the right for Plaintiff to seek a legal name change.

11 12. Plaintiff reserves the right, consistent with applicable rules and orders, to amend  
12 this Complaint to include other officials should it become apparent that those officials' inclusion  
13 is necessary to grant the prospective injunctive relief requested herein.

#### 14 **JURISDICTION**

15 13. This court has jurisdiction over the claims pursuant to 42 U.S.C. §§ 1331 and  
16 1343(a)(3).

17 14. Venue is appropriate in this judicial district pursuant to 42 U.S.C. § 1391(b)(2), as  
18 a substantial part of the events giving rise to the claim occurred in the Northern District of  
19 California.

#### 20 **FACTUAL BACKGROUND**

##### 21 **I. PLAINTIFF'S PERSONAL HISTORY WITH GENDER DYSPHORIA**

22 15. Plaintiff was born in 1964 in Detroit, Michigan. While Plaintiff was still an infant,  
23 her parents divorced and Plaintiff was sent to live with her grandmother. Approximately ten  
24 years later, Plaintiff's mother retook custody of Plaintiff and moved the family to the West Coast,  
25 eventually settling in California. Throughout childhood and adolescence, Plaintiff never felt  
26 comfortable in the male gender assigned to her at birth. Plaintiff attempted to overcompensate for  
27 feeling weak and less than a man as a result of Plaintiff's feminine characteristics and gender  
28

1 identity confusion by acting out aggressively, owning guns and turning to alcohol. At sixteen,  
2 Plaintiff dropped out of high school and moved to Hollywood, California, eventually working as  
3 a police informant in her late teens and joining the military.

4 16. On December 4, 1985, Plaintiff encountered a male acquaintance at a bar in  
5 Fullerton, California with whom Plaintiff had a contentious history due to Plaintiff's work as an  
6 informant. Both intoxicated, an argument began in the bar and Plaintiff left the bar to go to  
7 Plaintiff's car. The acquaintance followed Plaintiff to the car, and Plaintiff retrieved a loaded  
8 rifle from the car. Plaintiff fired a warning shot but the acquaintance reached for the gun and a  
9 struggle ensued. During the struggle, the acquaintance was shot in the neck. Plaintiff  
10 immediately attempted to administer first aid and, upon police arriving, stated "I shot my friend."  
11 The acquaintance was taken to the hospital, but died a few days later as the result of a blood clot  
12 from the gunshot wound. Plaintiff was convicted of second degree murder and sentenced to  
13 seventeen years to life. Plaintiff has been under the custody of CDCR since on or about April 15,  
14 1987 and currently is housed at Mule Creek State Prison in Ione, California.

15 17. Since at least adolescence Plaintiff has experienced significant distress and anxiety  
16 as a result of the discrepancy between the male sex assigned to her at birth and her own female  
17 gender identity. In the 1990s, Plaintiff's feelings and understandings surrounding her gender  
18 began to consolidate and Plaintiff came to understand and accept that she is a transsexual woman.

19 18. In 1999, Plaintiff underwent several weeks of testing by a psychologist, Dr. Carl  
20 Viesti, at a CDCR facility. "The results of all test instruments were consistent with the profile of  
21 a transsexual" and Plaintiff was diagnosed with gender identity disorder – "the only DSM-IV  
22 diagnosis available for this condition." Subsequent to Plaintiff's initial diagnosis, the American  
23 Psychiatric Association published a revised version of its Diagnostic and Statistical Manual of  
24 Mental Disorders ("DSM-V") in 2013, which replaced the "gender identity disorder" diagnosis  
25 with "gender dysphoria." The DSM-V characterizes the diagnosis of gender dysphoria as  
26 follows: "[i]ndividuals with gender dysphoria have a marked incongruence between the gender  
27 they have been assigned to (usually at birth, referred to as *natal gender*) and their  
28 experienced/expressed gender." Am. Psychiatric Ass'n, Diagnostic and Statistical Manual of

1 Mental Disorders 453 (5th ed. 2013) (“DSM-V”) In addition to this marked incongruence,  
2 “[t]here must also be evidence of distress about this incongruence.” *Id.* Hereinafter this  
3 Complaint will generally refer to the condition as gender dysphoria even when referring to  
4 diagnoses prior to 2013.

5 19. Upon receiving this diagnosis in early 2000, it was determined that it was  
6 medically necessary for Plaintiff to receive treatment for her condition that would help to bring  
7 her body into greater conformity with her gender identity. Toward this end, Plaintiff was  
8 prescribed feminizing hormone therapy and injections of a progestin (Depo-Prevera) to  
9 accomplish chemical castration. Plaintiff has received these treatments continually from January  
10 2000 through the present, with periodic dose adjustments as necessary.

11 20. As a result of Plaintiff’s feminizing hormone therapy and chemical castration  
12 treatments over the past fourteen years, Plaintiff’s physical features and voice have feminized.  
13 Plaintiff has been living as a female since the 1990s and her medical records repeatedly describe  
14 her as a “biological female” based upon her presentation, her estrogen and testosterone levels and  
15 the chemical castration. Her prison records note that she “tend[s] to move and gesture in a  
16 feminine manner” and describe her as “a pleasant-looking woman, slender and coiffed in a pony  
17 tail” who “walk[s] the yard . . . as a woman.”

18 21. The end goal of Plaintiff’s treatment has always been to bring her primary and  
19 secondary sex characteristics into conformity with her female gender identity. The only way this  
20 can be accomplished for Plaintiff is through sex reassignment surgery (“SRS”), also known as  
21 gender confirming surgery, which involves, *inter alia*, reconstructing the genitalia to conform in  
22 appearance and function to that typically associated with the person’s gender identity. Plaintiff’s  
23 records from the 1990s through the present reflect that she considered herself a transsexual,  
24 suffered severe distress as a result of her condition and desired to obtain a “sex change.” Her  
25 medical records consistently reflect that she was “undergoing a sex change” and in the “process”  
26 of changing her sex, with the final step of that process being SRS.

27 22. In addition to treating the severe mental anguish Plaintiff experiences as a result of  
28 her gender dysphoria, SRS also is medically necessary so that Plaintiff may reduce the high

1 dosages of feminizing hormones and Depo-Provera that she receives, which Defendants have  
2 repeatedly acknowledged are medically necessary treatment for Plaintiff's gender dysphoria.  
3 Large intake of these hormones over the course of many years has been attributed to increased  
4 risk for heart and vascular conditions and certain types of cancer. Eliminating these unnecessary  
5 increased risks is particularly essential in Plaintiff's case, because she contracted Hepatitis C after  
6 being gang raped while in CDCR custody in 2009 and thus already has significant risk factors and  
7 would face significant, heightened risks if she were to develop one of these conditions. SRS  
8 would entirely eliminate the need for Plaintiff to take Depo-Provera and would reduce by  
9 approximately 2/3 the required feminizing hormone dosage.

10 23. In 2012, Plaintiff's treating psychologist, Dr. Reese, expressly prescribed SRS as  
11 medically necessary for Plaintiff, finding that "it is clear that clinical medical necessity suggest  
12 and mandate a sex change medical operation before normal mental health can be achieved for this  
13 female patient." Dr. Reese repeatedly renewed his opinion with regard to the necessity of SRS  
14 for the following six months, at which time Plaintiff was removed from his care by the CDCR.

## 15 **II. SRS IS WIDELY RECOGNIZED AS MEDICALLY NECESSARY TREATMENT** 16 **FOR GENDER DYSPHORIA**

17 24. Dr. Reese's finding that SRS was a medically necessary treatment for Plaintiff's  
18 gender dysphoria is supported by leading medical research and standards of care. Gender  
19 dysphoria is recognized as a serious medical condition, with mental and physical manifestations.  
20 SRS has widely been accepted as genuine, necessary treatment for severe cases of gender  
21 dysphoria, including by the federal courts that have addressed the issue.

22 25. Gender dysphoria is not just a mild discomfort with one's sex assigned at birth;  
23 rather, it is a profound disturbance such that the lives of some transsexual people revolve only  
24 around performing activities to lessen their gender distress. DSM-V 453-454. Gender dysphoria  
25 often comes with severe mental anguish and the inability to function normally at school, at work,  
26 or in a relationship. *Id.* at 457-58. Moreover, those suffering from gender dysphoria often  
27 become socially ostracized and stigmatized, which further diminishes self-esteem. *Id.* Although  
28 gender dysphoria on its own is not considered a life-threatening illness, when not properly

1 treated, it is often associated with dangerous related conditions such as depression, substance  
2 related disorders, self-mutilation, and suicide. *Id.* at 458-59. Without treatment, the path for  
3 those suffering from gender dysphoria can be torturous, as evidenced by shockingly  
4 high suicide rates: 45 percent for those aged 18-44, in comparison to the national average of 1.6  
5 percent, according to the 2009 National Transgender Discrimination Survey.

6 26. The World Professional Association for Transgender Health (“WPATH”) is a non-  
7 profit, multidisciplinary professional association dedicated to understanding and treating gender  
8 dysphoria. The organization seeks to promote evidence-based care, education, research,  
9 advocacy, public policy, and respect for transgender health. WPATH publishes the Standards of  
10 Care for the Health of Transsexual, Transgender, and Gender Nonconforming People (“Standards  
11 of Care”), which are based upon the best available science and expert professional consensus and  
12 articulate clinical guidance for health professionals to assist with safe and effective care that  
13 maximizes the patients’ overall health and psychological well-being. The current version of the  
14 Standards of Care—Version 7—was released in September 2011 following a five-year process in  
15 which eighteen gender dysphoria specialists submitted peer-reviewed papers to help identify the  
16 most effective treatments for gender dysphoria. Eli Coleman et al., Standards of Care for the  
17 Health of Transsexual, Transgender, and Gender-Nonconforming People, Version 7, 13 INT’L J.  
18 OF TRANSGENDERISM, 165 (2011) (“Standards of Care”), attached hereto as Exhibit 1. WPATH’s  
19 Standards of Care are the prevailing standards for treating gender dysphoria. Mental health  
20 providers and medical professionals rely heavily on the Standards of Care in determining the best  
21 course of treatment for their patients.

22 27. The Standards of Care make clear that SRS is an “essential and medically  
23 necessary” treatment for gender dysphoria in certain cases. Hormone therapy alone for those  
24 individuals is not sufficient. As the Standards of Care explain:

25 While many transsexual, transgender, and gender-nonconforming individuals find  
26 comfort with their gender identity, role, and expression without surgery, for many  
27 others surgery is essential and medically necessary to alleviate their gender  
28 dysphoria. For the latter group, relief from gender dysphoria cannot be achieved  
without modification of their primary and/or secondary sex characteristics to  
establish greater congruence with their gender identity.

1           28. Under the Standards of Care, the criteria for vaginoplasty (surgical construction of  
2 a vagina) in male-to-female transsexuals include “[p]ersistent, well-documented gender  
3 dysphoria,” “[twelve] continuous months of hormone therapy as appropriate to the patient’s  
4 gender goals,” and “[twelve] continuous months of living in a gender role that is congruent with  
5 their gender identity.” *Id.* at 60. The twelve-month requirement that an SRS candidate live in an  
6 identity-congruent gender role is “based on expert clinical consensus that this experience provides  
7 ample opportunity for patients to experience and socially adjust in their desired gender role,  
8 before undergoing irreversible surgery.” *Id.* It is also recommended that patients seeking SRS  
9 have regular visits with a mental health professional or other medical professional.

10           29. The Standards of Care apply equally to inmates and non-inmates, expressly noting  
11 that “[h]ealth care for transsexual, transgender, and gender-nonconforming people living in an  
12 institutional environment should mirror that which would be available to them if they were living  
13 in a non-institutional setting within the same community. . . . All elements of assessment and  
14 treatment as described in the SOC can be provided to people living in institutions. Access to  
15 these medically necessary treatments should not be denied on the basis of institutionalization or  
16 housing arrangements.” *Id.* at 206-07.

17           30. In California, both Medicaid and private health insurance plans offer coverage for  
18 health care treatment related to gender transition, including SRS.

19           31. Medical studies have shown the effectiveness of SRS as a treatment for gender  
20 dysphoria. Modern SRS has been practiced for more than half a century and is the internationally  
21 recognized treatment to treat gender dysphoria in transsexual persons. A thorough analysis of  
22 available research conducted in 1990 concluded that SRS is an effective treatment for gender  
23 dysphoria because it drastically reduced the distress of patients with gender dysphoria. In 2007 a  
24 review of multiple studies on SRS was conducted. Special attention was paid to the effects of  
25 SRS on gender dysphoria, sexuality, and regret. The researchers concluded that SRS is an  
26 effective treatment for gender dysphoria and the only treatment that has been evaluated  
27 empirically with large clinical case series.

28           32. A 2009 study aimed at evaluating the results of surgical reassignment of genitalia

1 in transgender women concluded that surgical conversion of the genitalia is a safe and important  
2 phase of the treatment of transgender women.

3 33. In a study published in 2010 on outcomes of individuals following sex  
4 reassignment almost all patients were satisfied with the sex reassignment and 86% were assessed  
5 by clinicians at follow-up as stable or improved in global functioning.

6 34. Another study conducted in 2010 with 247 transgender women indicated surgical  
7 treatments are associated with improved mental health-related quality of life.

8 35. Nearly every study to date has concluded SRS is an effective treatment for gender  
9 dysphoria.

10 36. Research also has confirmed that hormone therapy alone is insufficient to treat  
11 certain cases of gender dysphoria. For example, one study compared gender dysphoria patient  
12 groups before treatment, during hormone therapy and after SRS and showed that a bigger  
13 improvement occurs after SRS than after simply changing the gender role.

### 14 **III. DEFENDANTS DENIED PLAINTIFF MEDICALLY NECESSARY SURGERY**

15 37. On September 16, 2012, Plaintiff filed a Patient/Inmate Health Care Appeal  
16 seeking SRS as a medically necessary treatment for her gender dysphoria, because the extensive  
17 feminizing hormone therapy and chemical castration treatments she had received over the course  
18 of the prior thirteen years were unsuccessful in reducing the extreme distress Plaintiff suffers as a  
19 result of her gender dysphoria. Plaintiff ultimately was denied SRS at three levels of review,  
20 despite the explicit finding by Dr. Reese – Plaintiff’s treating mental health care professional –  
21 that SRS is medically necessary to treat Plaintiff’s gender dysphoria and Plaintiff’s well-  
22 documented mental anguish – including anxiety and depression – resulting from being forced to  
23 retain her male genitalia.

24 38. The first level of review was performed by Defendant Newton. Defendant Newton  
25 denied Plaintiff’s appeal for SRS on or around September 28, 2012 despite Plaintiff’s well-  
26 documented case of serious gender dysphoria and the resulting mental anguish, including anxiety  
27 and depression that only SRS would effectively treat. Plaintiff’s medical records make clear that  
28 Plaintiff had been living as a female and receiving feminizing hormone therapy and chemical

1 castration treatments for over twelve years but still experienced significant distress and anxiety as  
2 a result of the discrepancy between her remaining male sex characteristics, including non-  
3 functioning male genitalia, and her female gender identity. In fact, Plaintiff’s mental anguish is  
4 intensified by the fact – repeatedly established in her medical records – that Plaintiff is a  
5 “biological female” based upon her hormone levels and chemical castration, yet is being forced to  
6 live every minute of every day in a body with male genitalia that does not match her biology or  
7 deeply rooted identity. It thus was clear under prevailing Standards of Care and medical research  
8 that SRS was medically necessary and that Plaintiff fully met the requirements for sex  
9 reassignment surgery.

10 39. Defendant Newton thus was fully aware that Plaintiff faces a serious medical need  
11 for SRS in order to treat her diagnosed gender dysphoria but was deliberately indifferent to  
12 Plaintiff’s medical need for SRS and denied her appeal. Defendant Newton failed to take any  
13 reasonable measures to address the ongoing mental anguish that Plaintiff suffers as a result of her  
14 gender dysphoria, which is not fully addressed by the feminizing hormone therapy and chemical  
15 castration treatments that Plaintiff has been receiving for the past 14 years. Defendant Newton’s  
16 denial of Plaintiff’s request for medically necessary SRS was unreasonable and manifested a  
17 wanton disregard for appropriate treatment of Plaintiff’s gender dysphoria based upon her history  
18 documented in her medical records and the prudent professional standards embodied by the  
19 WPATH Standards of Care. Defendant Newton’s deliberate indifference is further evidenced by  
20 unreasonable reliance upon Newton’s own non-specialized conclusions rather than those of a  
21 qualified, experienced medical provider.

22 40. Following Defendant Newton’s denial of Plaintiff’s request, Plaintiff appealed to  
23 the second level of review on October 1, 2012. In appealing to the second level of review,  
24 Plaintiff explained that she “suffers greatly w/out gender reassignment surgery,” and indicated  
25 that her suffering would be substantially relieved through SRS. Plaintiff’s second level appeal  
26 was denied by Defendant Adams on or around November 27, 2012.

27 41. In the denial, Defendant Adams writes that “[o]ver the past year and a half, neither  
28 your mental health [provider] nor your [Primary Care Provider] has recommended SRS as a

1 treatment for any of your medical conditions,” and while “[Plaintiff’s] mental health team is well  
2 aware [of her] needs,” “[t]hey have not recommended SRS as a treatment which would help any  
3 of [Plaintiff’s] mental health conditions.” Notably, Defendant Adams’ denial of the appeal does  
4 not state that either Plaintiff’s mental health provider or primary care provider opposed SRS or  
5 that Defendant Adams ever expressly asked Plaintiff’s mental health provider or primary care  
6 physician if Plaintiff needed SRS. Moreover, there is no indication that Plaintiff’s request for  
7 SRS was ever reviewed by a health care provider with sufficient experience or knowledge  
8 regarding gender dysphoria.

9 42. Instead, Defendant Adams relies only on Adams’ own, non-specialized conclusion  
10 that SRS is not necessary solely because the medical records purportedly did not explicitly state  
11 that SRS was recommended. Had Defendant Adams inquired, Adams would have discovered that  
12 Plaintiff’s mental health provider did, in fact, recommend SRS as medically necessary treatment  
13 for Plaintiff’s gender dysphoria. Indeed, only two days later, on November 29, 2012, Dr.  
14 Reese—Plaintiff’s treating mental health care professional—specifically prescribed SRS as  
15 medically necessary to treat Plaintiff’s gender dysphoria, writing that “[a]s a female person, and  
16 one for the last 13 years, with the diagnoses given and awarded 13 years ago, it is clear that  
17 clinical necessity suggest and mandate a sex change medical operation before normal mental  
18 health can be achieved for this female patient.”

19 43. Regardless, even if none of Plaintiff’s health care providers explicitly included in  
20 their reports a recommendation for SRS, Plaintiff’s medical records make clear that Plaintiff had  
21 been living as a female and receiving feminizing hormone therapy and chemical castration  
22 treatments for over twelve years but still experienced (and continues to experience) significant  
23 distress and anxiety as a result of the discrepancy between her remaining male sex characteristics,  
24 including non-functioning male genitalia, and her female gender identity and thus that SRS is  
25 medically necessary treatment for her. Defendant Adams was fully aware that Plaintiff faces a  
26 serious medical need for SRS in order to treat her diagnosed gender dysphoria but was  
27 deliberately indifferent to Plaintiff’s medical need for SRS when Adams denied Plaintiff’s appeal.  
28 Defendant Adams failed to take any reasonable measures to address the ongoing mental anguish

1 that Plaintiff suffers as a result of her gender dysphoria, which is not fully addressed by the  
2 feminizing hormone therapy and chemical castration treatments that Plaintiff has been receiving  
3 for the past 14 years. Defendant Adams' denial of Plaintiff's request for medically necessary  
4 SRS was unreasonable and manifested a wanton disregard for appropriate treatment of Plaintiff's  
5 gender dysphoria based upon her history documented in her medical records and the prudent  
6 professional standards embodied by the WPATH Standards of Care. Defendant Adams'  
7 deliberate indifference is further evidenced by unreasonable reliance upon Adams' own non-  
8 specialized conclusions rather than those of a qualified, experienced medical provider.

9 44. Despite Dr. Reese's clear prescription of SRS as treatment for Plaintiff's gender  
10 dysphoria, no official moved to schedule or otherwise provide SRS to Plaintiff. Plaintiff  
11 therefore appealed to the third level of review on December 4, 2012.

12 45. In response to Plaintiff's third appeal, Defendant Coffin was assigned to create a  
13 report. Defendant Coffin interviewed Plaintiff for the report on or around July 1, 2013 and he  
14 submitted the report on or around October 10, 2013. Upon information and belief, Defendant  
15 Coffin has no significant experience or training in the treatment of transsexual patients and is not  
16 qualified to make a determination with regard to the medical necessity of SRS.

17 46. In his report, Defendant Coffin reconfirms Plaintiff's diagnosis of gender  
18 dysphoria, agreeing that she legitimately suffers as a result of the discrepancy between the gender  
19 assigned to her at birth and her own female gender identity and that Plaintiff does not identify as  
20 female for any perceived cultural advantage, or to otherwise reap any benefits from a female  
21 classification. Defendant Coffin confirms that Plaintiff had an "extended period of gender  
22 identity confusion" which was consolidated in the mid-1990s, and her behavior "appears to  
23 confirm the accuracy of [Dr. Carl Viesti's 2000] diagnosis [of gender dysphoria]." Defendant  
24 Coffin also acknowledges that, despite 14 years of feminizing hormone therapy and chemical  
25 castration, Plaintiff's gender dysphoria continues to "create distress for [Plaintiff] related to [her]  
26 gender identity," including living a "miserable existence" because Plaintiff is "not happy with  
27 who [she] is."

28 47. Defendant Coffin even acknowledges that Plaintiff likely meets the requirements

1 for SRS, yet self-servingly concludes: “While it appears likely that [Norsworthy’s] medical  
2 consultants would approve [her] as a candidate for SRS as an *elective* procedure, in the opinion of  
3 this evaluator the available documentation does not establish SRS as medically necessary at this  
4 time.” Defendant Coffin fails to explain why Plaintiff’s treating psychotherapist Dr. Reese’s  
5 findings that SRS is medically necessary should not be followed, other than to state that “the  
6 available evidence does not clearly document that the necessary recommendations have been  
7 made or approved consistent with Department policy,” as “[t]here does not appear to be evidence  
8 on the record that the gender and endocrinology specialists involved in [Plaintiff’s] care have  
9 made a specific recommendation regarding SRS.” Thus, rather than making an assessment of  
10 what treatment actually is medically necessary for Plaintiff based upon her medical records, his  
11 own evaluation of Plaintiff, and standards of care in the field, Defendant Coffin solely bases his  
12 recommendation on his self-serving conclusion that “the available evidence” does not explicitly  
13 include a recommendation for SRS from “gender and endocrinology specialists.”

14 48. Notably, similar to Defendant Adams, Defendant Coffin does not state that any  
15 gender or endocrinology specialist ever recommended against SRS or that he actually ever even  
16 consulted with a gender or endocrinology specialist regarding Plaintiff’s treatment. Nor does  
17 Defendant Coffin offer any explanation for why the recommendation of a gender or  
18 endocrinology specialist is required or why, if required, a gender or endocrinology specialist was  
19 not charged with providing the report for the third level of review.

20 49. Under these circumstances, it is clear that the rationale for Defendant Coffin’s  
21 recommendation against SRS was merely a pretext. Plaintiff’s medical records make clear that  
22 Plaintiff had been living as a female and receiving feminizing hormone therapy and chemical  
23 castration treatments for over 13 years but still experienced (and continues to experience)  
24 significant distress and anxiety as a result of the discrepancy between her remaining male sex  
25 characteristics, including non-functioning male genitalia, and her female gender identity and thus  
26 that SRS is medically necessary treatment. Defendant Coffin thus was fully aware that Plaintiff  
27 faces a serious medical need for SRS in order to treat her diagnosed gender dysphoria but was  
28 deliberately indifferent to Plaintiff’s medical need for SRS in recommending against SRS.

1 Defendant Coffin failed to take any reasonable measures to address the ongoing mental anguish  
2 that Plaintiff suffers as a result of her gender dysphoria, which he acknowledged is not fully  
3 addressed by the feminizing hormone therapy and chemical castration treatments that Plaintiff has  
4 been receiving for the past 14 years. Defendant Coffin’s denial of Plaintiff’s request for  
5 medically necessary SRS was unreasonable and manifested a wanton disregard for appropriate  
6 treatment of Plaintiff’s gender dysphoria based upon her history documented in her medical  
7 records and the prudent professional standards embodied by the WPATH Standards of Care.  
8 Defendant Coffin’s deliberate indifference is further evidenced by Coffin’s unreasonable reliance  
9 upon his own non-specialized conclusions rather than those of a qualified, experienced medical  
10 provider.

11 50. On October 25, 2013, based upon Defendant Coffin’s recommendation Plaintiff’s  
12 third and final appeal was denied by Defendant Zamora, Chief of the CDCR Office of Third  
13 Level Appeals-Health Care because “[Plaintiff’s] current providers have documented the  
14 determination that the subject surgery is not medically necessary for [her],” and Plaintiff’s  
15 “appeal of that determination does not include a showing that the subject surgery is medically  
16 necessary.” Defendant Zamora’s decision is wholly unsupported by Plaintiff’s medical records.  
17 Defendant Zamora failed to address Dr. Reese’s opinion that SRS was medically necessary in the  
18 denial, failed to obtain the recommendation of any other qualified health care provider, and failed  
19 to offer any measures to address Plaintiff’s ongoing mental anguish resulting from her gender  
20 dysphoria.

21 51. Defendant Zamora was fully aware that Plaintiff faces a serious medical need for  
22 SRS in order to treat her diagnosed gender dysphoria but was deliberately indifferent to Plaintiff’s  
23 medical need for SRS in denying her SRS. Defendant Zamora failed to take any reasonable  
24 measures to address the ongoing mental anguish that Plaintiff suffers as a result of her gender  
25 dysphoria, which Zamora acknowledged is not fully addressed by the feminizing hormone  
26 therapy and chemical castration treatments that Plaintiff has been receiving for the past 14 years.  
27 Defendant Zamora’s denial of Plaintiff’s request for medically necessary SRS was unreasonable  
28 and manifested a wanton disregard for appropriate treatment of Plaintiff’s gender dysphoria based

1 upon her history documented in her medical records and the prudent professional standards  
 2 embodied by the WPATH Standards of Care. Defendant Zamora’s deliberate indifference is  
 3 further evidenced by Zamora’s unreasonable reliance upon the conclusions of non-specialized,  
 4 inexperienced health care providers rather than those of a qualified, experienced health care  
 5 professional.

6 52. Defendant Zamora’s denial exhausted Plaintiff’s administrative remedies within  
 7 the CDCR.

8 53. Defendant Beard has ultimate authority for whether or not Plaintiff is provided  
 9 SRS and for the implementation of CDCR policy with regard to medically necessary medical  
 10 treatment. Defendant Beard has endorsed and affirmed the discriminatory and deliberately  
 11 indifferent conduct of Defendants Newton, Adams, Coffin and Zamora by failing to intercede and  
 12 grant Plaintiff medically necessary SRS and by failing to ensure that CDCR’s policies  
 13 surrounding the provision of medical treatment are implemented in a fair and non-discriminatory  
 14 manner and/or that inmates receive medically necessary treatment for gender dysphoria, including  
 15 SRS in appropriate cases. Defendant Beard’s deliberate indifference is further evidenced by  
 16 Beard’s unreasonable reliance upon the conclusions of non-specialized, inexperienced health care  
 17 providers rather than those of a qualified, experienced health care professional.

18 **IV. CALIFORNIA CODE OF REGULATIONS TITLE 15, SECTION 3350.1 IS**  
 19 **DISCRIMINATORY AND DOES NOT IMMUNIZE DEFENDANTS’**  
 20 **UNCONSTITUTIONAL DENIAL OF SRS**

21 54. Defendants’ refusal to provide SRS to Plaintiff is not justified by California Code  
 22 of Regulations (“C.C.R.”) Title 15, Section 3350.1, which identifies vaginoplasty as a “[s]urgery  
 23 not medically necessary [that] shall not be provided” except for cystocele or rectocele (conditions  
 24 involving damages to the vaginal wall) unless the patient’s attending physician prescribes the  
 25 treatment and “[t]he service is approved by the medical authorization review committee and the  
 26 health care review committee.” 15 C.C.R. § 3350.1(b)(2); 15 C.C.R. § 3350.1(d).

27 55. As a preliminary matter, this regulatory scheme is facially discriminatory against  
 28 transsexual women inmates by making vaginoplasty *de facto* unavailable for such inmates but

1 allowing the treatment for non-transgender female inmates with certain conditions such as  
2 cystocele. The regulation singles out inmates assigned male at birth, and transgender women  
3 inmates in particular, by placing onerous, significant barriers to obtaining vaginoplasty even  
4 when, as here, it is medically necessary.

5 56. Moreover, the regulation was applied by each of the Defendants in a manner that  
6 discriminated against Plaintiff on the basis of her status as an inmate assigned male at birth, and a  
7 transsexual woman in particular. Each of the Defendants failed to give proper consideration to  
8 whether or not SRS was a medical necessity for the treatment of Plaintiff's gender dysphoria and  
9 based their conclusions on different factors and processes than they would have in determining  
10 the appeal of a non-transgender inmate's request for medically-necessary surgery. Each  
11 Defendant regarded and applied the regulation as a *de facto* bar to Plaintiff's request for SRS –  
12 and vaginoplasty in particular – solely as the result of Plaintiff being assigned male at birth, and  
13 status as a transgender woman in particular.

14 57. Finally, each of the Defendants discriminated against Plaintiff and manifested  
15 deliberate indifference to the mental anguish and suffering still resulting from her gender  
16 dysphoria by failing to prescribe SRS and refer Plaintiff's SRS for approval by the medical  
17 authorization review committee and the health care review committee pursuant to 15 C.C.R. §  
18 3350.1(d).

19 58. Plaintiff continues to suffer deep anxiety and distress as a result of the discrepancy  
20 between her female gender identity and her remaining male sex characteristics, including non-  
21 functioning male genitalia. Plaintiff's mental anguish is intensified by the fact – repeatedly  
22 established in her medical records – that Plaintiff is a biological female based upon her hormone  
23 levels and chemical castration, yet is being forced to live every minute of every day in a body  
24 with male genitalia that does not match her biology.

## 25 **V. PLAINTIFF'S REQUEST FOR A NAME CHANGE**

26 59. Plaintiff identifies and has been living as a woman since the 1990s. As part of her  
27 treatment for gender dysphoria and to militate against the effects caused by the discrepancy  
28 between Plaintiff's female gender identity and the male sex assigned to her at birth, Plaintiff

1 changed her name from the normatively masculine Jeffrey Bryan Norsworthy, to the normatively  
2 feminine name Michelle-Lael Bryanna Norsworthy. Plaintiff has been using the name “Michelle”  
3 – in all settings in which she had the ability to do so – since the mid-1990s.

4 60. Use of the name “Jeffrey” is a painful reminder to Plaintiff of the discrepancy  
5 between Plaintiff’s female gender identity and the male sex assigned to her at birth and causes  
6 Plaintiff severe distress and anxiety each time it is used. WPATH’s Standards of Care recognize  
7 “changes in name and gender markers on identity documents” as an important part of the  
8 treatment for gender dysphoria. Standards of Care at 171-72. In a statement issued by the  
9 WPATH Board of Directors in 2008, they made it clear that SRS “is not required for social  
10 gender recognition, and such surgery should not be a prerequisite for document or record  
11 changes.” Instead, “[c]hanges to documentation are important aids to social functioning, and are  
12 a necessary component of the pre-surgical process; delay of document changes may have a  
13 deleterious impact on a patient's social integration and personal safety.”

14 61. Consistent with the Standards of Care, Plaintiff’s treating doctors generally refer to  
15 her as “Michelle” not “Jeffrey.”

16 62. With very few exceptions, California law permits any person to obtain a change of  
17 name from a California Superior Court. Cal. Code Civ. Proc. §§ 1275, 1279.5. For a transgender  
18 person seeking a change of name to better conform the name to the person’s gender identity, the  
19 law provides that a name change petition must be granted without the necessity of a hearing if no  
20 opposition is raised.

21 63. Persons under the supervision of CDCR, however, are required to obtain the  
22 permission of the warden of the facility in which he or she is housed in order to submit  
23 documentation to the Superior Court for approval of a requested name change. Cal. Code Civ.  
24 Proc. § 1279.5.

25 64. In furtherance of her treatment for gender dysphoria and to minimize the use of the  
26 name “Jeffrey” and the pain and distress associated therewith, Plaintiff submitted a request for  
27 approval for a legal name change to the warden of the CDCR facility to which she was assigned  
28 at the time – Defendant Spearman of the Correctional Training Facility. However, her request for

1 a name change was denied.

2 65. The formal appeal at the first level was bypassed by the appeals coordinator and  
3 Plaintiff's appeal was accepted at the second level of review. Defendant Spearman denied the  
4 appeal, however, because although Spearman "acknowledge[d] the appellant is in the process of  
5 'trans-sexualism'" he determined "that it would not be appropriate to approve a name change to  
6 the feminine until the appellant is determined to meet the criteria to be assigned to an institution  
7 for female offenders." Defendant Spearman presented no justification or reasoning for this  
8 position.

9 66. Defendant Spearman's decision explicitly discriminates against Plaintiff on the  
10 basis of her gender – refusing to allow Plaintiff a feminine name because Plaintiff was assigned  
11 the male sex at birth and has not yet been provided medically necessary SRS treatment.  
12 Defendant Spearman's decision further discriminated against Plaintiff because she is a  
13 transsexual woman, treating Plaintiff's request differently and subjecting it to different criteria  
14 than he would the name change request of an inmate who was not transgender.

15 67. In addition to being discriminatory, Defendant Spearman's denial of Plaintiff's  
16 request to pursue a legal name change was deliberately indifferent to Plaintiff's gender dysphoria  
17 and the mental anguish and suffering caused by not being able to legally change her name.  
18 Defendant Spearman was fully aware that Plaintiff suffers from gender dysphoria, even  
19 acknowledging her condition in the decision, but failed to take any reasonable measures to  
20 address the ongoing mental anguish that Plaintiff unnecessarily suffers as a result of not being  
21 able to change her name or to offer any legitimate justification for refusing to allow her to pursue  
22 a legal name change.

23 68. Plaintiff appealed to the third level of review, where the appeals examiners,  
24 Defendants Van Leer and Lozano, found the Warden's denial of Plaintiff's name change request  
25 "appropriate as the appellant is still incarcerated in an institution for men."

26 69. The decision of Defendants Van Leer and Lozano to deny Plaintiff access to  
27 pursue a name change – just like that of Defendant Spearman – clearly discriminates against  
28 Plaintiff by treating Plaintiff's request differently than those of other inmates solely on the basis

1 of Plaintiff's gender and gender dysphoria. In addition to being discriminatory, Defendants Van  
2 Leer and Lozano were deliberately indifferent to Plaintiff's gender dysphoria and the mental  
3 anguish and suffering caused by not being able to legally change her name.

4 70. The final denial by Defendants Van Leer and Lozano exhausted Plaintiff's  
5 administrative remedies available to her within the CDCR. Because Plaintiff is incarcerated, she  
6 is unable to petition the California Superior Court for a name change without first obtaining  
7 approval from the Warden and ultimately Defendant Beard, the Secretary of the CDCR. Cal.  
8 Code Civ. Proc. § 1279.5.

9 71. Defendant Beard thus has ultimate authority for whether or not Plaintiff is allowed  
10 to pursue a legal name change and for the implementation of CDCR policy with regard to inmate  
11 name changes. Defendant Beard has endorsed and affirmed the discriminatory and deliberately  
12 indifferent conduct of Defendants Spearman, Van Leer and Lozano by failing to intercede and  
13 grant Plaintiff's request to pursue a legal name change and by failing to ensure that the name  
14 change policy is implemented in a fair and non-discriminatory manner and/or that inmates receive  
15 medically necessary treatment for gender dysphoria, including the ability to change one's legal  
16 name.

17 72. Plaintiff seeks permission for a legal name change as a further step toward  
18 minimizing the discrepancy between her gender identity and the sex she was assigned at birth and  
19 as a fundamental aspect of expression of her true, female identity. As a transsexual woman,  
20 Plaintiff suffers severe emotional and psychological stress and anxiety when she is referred to by  
21 the normatively masculine name given to her at birth.

22 73. This distress can be alleviated by a simple name change that will aid in the  
23 treatment of Plaintiff's gender dysphoria and allow Plaintiff to express herself authentically in  
24 accordance with her female gender identity. The repeated refusal to provide Plaintiff with this  
25 treatment for gender dysphoria serves no government objective, and there is no rational basis  
26 under which to deny her requested name change. The only explanation offered (that Plaintiff does  
27 not qualify for placement in a women's facility) is wholly unsupported by the medical literature  
28 regarding the treatment of gender dysphoria and clearly discriminates against Plaintiff based upon

1 her gender and gender dysphoria.

2 **COUNT ONE**

3 VIOLATION OF 42 U.S.C. § 1983 BASED UPON  
4 DEPRIVATION OF EIGHTH AMENDMENT RIGHTS RESULTING FROM  
5 FAILURE TO PROVIDE MEDICALLY NECESSARY SURGERY

6 (against Defendants Beard, Newton, Adams, Zamora, and Coffin)

7 74. Plaintiff repeats and realleges the allegations of Paragraphs 1 through 73 as if fully  
8 set forth herein.

9 75. Plaintiff has been diagnosed with the serious medical condition of gender  
10 dysphoria which, despite 14 years of feminizing hormone therapy and chemical castration,  
11 continues to cause Plaintiff serious mental distress, and requires treatment in the form of SRS as  
12 prescribed by Plaintiff's former treating mental health provider, Dr. Reese, and supported by  
13 prevailing medical standards of care.

14 76. Each Defendant – acting in his/her official capacity and under color of state law –  
15 was and remains deliberately indifferent to Plaintiff's medical need for SRS. Each Defendant  
16 knew of Plaintiff's serious medical need for SRS and disregarded Plaintiff's need and failed to  
17 take any reasonable measures to address Plaintiff's continued pain and suffering resulting from  
18 her gender dysphoria. The deliberate indifference of each Defendant is further demonstrated by  
19 that Defendant's unreasonable reliance on their own conclusions or those of other non-specialized  
20 individuals rather than the conclusions and recommendations of a health care professional with  
21 sufficient training and/or experience in the treatment of gender dysphoria.

22 77. Defendants' continued denial of SRS is causing irreparable harm to Plaintiff,  
23 including severe anxiety and distress as a result of the discrepancy between her remaining male  
24 sex characteristics, including non-functioning male genitalia, and her female gender identity.  
25 Plaintiff's mental anguish is intensified by the fact – repeatedly established in her medical records  
26 – that Plaintiff is a "biological female" based upon her hormone levels and chemical castration,  
27 yet is being forced to live every minute of every day in a body with male genitalia that does not  
28 match her biology. The denial of SRS also unreasonably and recklessly places Plaintiff at  
increased risk for heart and vascular conditions and certain types of cancer, particularly given that

1 she is afflicted with Hepatitis C, which risks could be substantially reduced as a result of the  
2 substantially reduced hormone treatments that would be required following SRS.

3 78. By failing to provide SRS to Plaintiff while incarcerated, Defendants have  
4 deprived Plaintiff of her right to medically necessary treatment guaranteed by the Eighth  
5 Amendment to the United States Constitution.

## 6 COUNT TWO

### 7 VIOLATION OF 42 U.S.C. § 1983 BASED UPON DEPRIVATION OF FOURTEENTH 8 AMENDMENT RIGHT TO EQUAL PROTECTION BY REFUSING PLAINTIFF SRS ON THE BASIS OF GENDER AND TRANSGENDER STATUS

9 (against Defendants Beard, Newton, Adams, Zamora, and Coffin)

10 79. Plaintiff repeats and realleges the allegations of Paragraphs 1 through 78 as if fully  
11 set forth herein.

12 80. California Code of Regulations (“C.C.R.”) Title 15, Section 3350.1 identifies  
13 vaginoplasty as a “[s]urgery not medically necessary [that] shall not be provided” except for  
14 cystocele or rectocele unless the patient’s attending physician prescribes the treatment and “[t]he  
15 service is approved by the medical authorization review committee and the health care review  
16 committee.” 15 C.C.R. § 3350.1(b)(2); 15 C.C.R. § 3350.1(d).

17 81. This regulatory scheme discriminates against transsexual women inmates by  
18 making vaginoplasty *de facto* unavailable for such inmates but allowing the treatment for non-  
19 transgender female inmates with certain conditions such as cystocele. The statute singles out  
20 inmates assigned male at birth, and transgender women inmates in particular, by placing onerous,  
21 significant barriers to obtaining vaginoplasty even when, as here, it is medically necessary.

22 82. Each of the Defendants applied the statute in a manner that discriminated against  
23 Plaintiff on the basis of her gender and transgender status. In considering Plaintiff’s need for  
24 SRS, each Defendant failed to give proper consideration to the specific circumstances of  
25 Plaintiff’s gender dysphoria and need for SRS but instead based their conclusions on factors and  
26 processes that they would not have considered in determining the medical necessity of a treatment  
27 for a non-transgender inmate’s request for medically-necessary surgery. Each Defendant  
28 regarded and applied the statute as a *de facto* bar to Plaintiff’s request for SRS – and vaginoplasty

1 in particular – solely as the result of Plaintiff being assigned male at birth, and a transsexual  
2 woman in particular.

3 83. Finally, each Defendant discriminated against Plaintiff and manifested deliberate  
4 indifference to the mental anguish and suffering still resulting from her gender dysphoria by  
5 failing to prescribe SRS and refer Plaintiff’s SRS for approval by the medical authorization  
6 review committee and the health care review committee pursuant to 15 C.C.R. § 3350.1(d)

7 84. Defendants intentionally treat Plaintiff differently from non-transgender female  
8 inmates seeking vaginoplasty due to her gender and transgender status.

9 85. Due to the difference in treatment, similarly situated non-transgender women with  
10 serious medical needs are able to receive adequate medical care, including medically necessary  
11 vaginoplasty, but inmates assigned male at birth and transgender inmates requiring such treatment  
12 are either barred from receiving it or, at a minimum, held to a more onerous standard.

13 86. The difference in treatment between transgender women and non-transgender  
14 women does not further any important government interest in a way that is substantially related to  
15 that interest, nor is it rationally related to any legitimate government interest.

16 87. Defendants’ discriminatory denial of SRS is causing irreparable harm to Plaintiff,  
17 including severe anxiety and distress as a result of the discrepancy between her remaining male  
18 sex characteristics, including non-functioning male genitalia, and her female gender identity.  
19 Plaintiff’s mental anguish is intensified by the fact – repeatedly established in her medical records  
20 – that Plaintiff is a “biological female” based upon her hormone levels and chemical castration,  
21 yet is being forced to live every minute of every day in a body with male genitalia that does not  
22 match her biology. The denial of SRS also unreasonably and recklessly places Plaintiff at  
23 increased risk for heart and vascular conditions and certain types of cancer, particularly given that  
24 she is afflicted with Hepatitis C, which risks could be substantially reduced as a result of the  
25 substantially reduced hormone treatments that would be required following SRS.

26 88. By failing to provide SRS to Plaintiff while incarcerated, Defendants have  
27 deprived Plaintiff of her right to equal protection under the laws guaranteed by the Fourteenth  
28 Amendment to the United States Constitution.

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**COUNT THREE**

VIOLATION OF 42 U.S.C. § 1983 BASED UPON  
DEPRIVATION OF EIGHTH AMENDMENT RIGHTS RESULTING FROM  
FAILURE TO ALLOW PLAINTIFF LEGAL NAME CHANGE

(against Defendants Beard, Spearman, Van Leer and Lozano)

89. Plaintiff repeats and realleges the allegations of Paragraphs 1 through 88 as if fully set forth herein.

90. Plaintiff has been diagnosed with the serious medical condition of gender dysphoria and the continued use of Plaintiff’s normatively masculine legal name causes Plaintiff serious mental distress that would be significantly reduced by allowing Plaintiff to change her legal name to her preferred normatively feminine name, Michelle-Lael Bryanna Norsworthy.

91. Each Defendant – acting in his/her official capacity and under color of state law – was and remains deliberately indifferent to Plaintiff’s medical need for a legal name change, in spite of Plaintiff’s well-documented condition and widely recognized Standards of Care recognizing the need for a name change. Each Defendant knew of Plaintiff’s serious medical need for the name change and deliberately disregarded Plaintiff’s need and failed to take any reasonable measures to address Plaintiff’s continued pain and suffering resulting from her inability to legally change her name. The deliberate indifference of each Defendant is further demonstrated by that Defendant’s unreasonable reliance on their own conclusions or those of other non-specialized individuals rather than the conclusions and recommendations of a health care professional with sufficient training and/or experience in the treatment of gender dysphoria.

92. Defendants’ continued denial of the request to pursue a legal name change is causing irreparable harm to Plaintiff, including severe anxiety and distress.

93. By failing to provide permission for Plaintiff to petition the California Superior Court for a name change while incarcerated, Defendants have deprived Plaintiff of her right to medically necessary treatment guaranteed by the Eighth Amendment to the United States Constitution.

**COUNT FOUR**

**VIOLATION OF 42 U.S.C. § 1983 BASED UPON DEPRIVATION OF FOURTEENTH  
AMENDMENT RIGHT TO EQUAL PROTECTION BY REFUSING PLAINTIFF  
PERMISSION TO PURSUE A LEGAL NAME CHANGE ON THE BASIS OF GENDER AND  
TRANSGENDER STATUS**

(against Defendants Beard, Spearman, Van Leer and Lozano)

94. Plaintiff repeats and realleges the allegations of Paragraphs 1 through 93 as if fully set forth herein.

95. California Code of Regulations, Title 15, section 3294.5 explicitly allows inmates to request legal name changes.

96. Each Defendant – acting in his/her official capacity and under color of state law – discriminated against Plaintiff by refusing to permit her to seek a legal name change as a result of her gender and transgender status. In particular, each Defendant refused Plaintiff’s request to change her name to a normatively feminine name solely because Plaintiff was assigned male at birth. Upon information and belief, similarly situated non-transgender female inmates are permitted to change their names to normatively feminine names and similarly situated non-transgender male inmates are permitted to change their names to desired normatively masculine names.

97. This difference in treatment with regard to name changes based upon gender and transgender status does not further any important government interest in a way that is substantially related to that interest, nor is it rationally related to any legitimate government interest.

98. Defendants’ discriminatory denial of Plaintiff’s request to petition the California Superior Court for a name change is causing irreparable harm to Plaintiff, including severe anxiety and distress.

99. By failing to provide permission for Plaintiff to petition the California Superior Court for a name change while incarcerated, Defendants have deprived Plaintiff of her right to equal protection under the laws guaranteed by the Fourteenth Amendment to the United States Constitution.

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**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment against Defendants Beard, Newton, Adams, Zamora, Coffin, Spearman, Van Leer and Lozano, and Does 1-30 as follows:

100. Enter injunctive relief enjoining Defendants from interfering with the discretion of the mental health and other medical professionals involved in Plaintiff’s care;

101. Enter injunctive relief declaring California Code of Regulations, Title 15, Section 3350.1(b)(2) unconstitutional on its face and as applied;

102. Enter injunctive relief enjoining Defendants to provide Plaintiff with adequate medical care, including SRS;

103. Enter injunctive relief requiring Defendants to allow Plaintiff to seek a legal name change in the Superior Court of California pursuant to California Code of Regulations, Title 15, section 3294.5; California Code of Civil Procedure sections 1279.5, 1276 and 1277;

104. Award reasonable attorneys fees and costs to Plaintiff pursuant to 42 U.S.C. § 1988; and

105. Such other relief as the Court finds appropriate in the interests of justice.

Dated: July 2, 2014

MORGAN, LEWIS & BOCKIUS LLP

By           /s/ - Herman J. Hoying            
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