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Attorney for Plaintiffs

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO/OAKLAND DIVISION**

CANDIDO ZAYAS, RUBEN SOTO,  
ALFREDO RUIZ, JOSE POOT, MILTON  
LECLAIRE, NIGEL HENRY, RALPH  
DOMINGUEZ, MATTHEW BRUGMAN,  
MICHAEL BROWN, KISHAWN NORBERT,  
MARK EDWARD HILL, and JAMES CLARK  
on behalf of themselves individually and others  
similarly situated, as a class and Subclass,

Plaintiffs,

vs.

SAN FRANCISCO COUNTY SHERIFF'S  
DEPARTMENT, CITY AND COUNTY OF  
SAN FRANCISCO, SAN FRANCISCO  
SHERIFF VICKI HENNESSEY; UNDER  
SHERIFF MATHEW FREEAN; CHIEF  
DEPUTY SHERIFF PAUL MIYAMOTO;  
CAPTAIN JASON JACKSON, SARGEANT  
DOLLY and John & Jane DOEs, Nos. 1 - 50.

Defendants.

Case No.: 3:18 LB-CV-06155 JCS

**FIRST AMENDED COMPLAINT FOR  
INJUNCTIVE RELIEF AND DAMAGES  
FOR VIOLATION OF CIVIL RIGHTS and  
OTHER WRONGS**

**JURY TRIAL DEMANDED**

Plaintiffs CANDIDO ZAYAS, RUBEN SOTO, ALFREDO RUIZ, JOSE POOT, MILTON  
LECLAIRE, NIGEL HENRY, RALPH DOMINGUEZ, and MATTHEW BRUGMAN, MICHAEL

1 BROWN, KISHAWN NORBERT, MARK HILL, And JAMES CLARK now joined by others  
2 named within, on behalf of themselves and those they speak and seek to represent herein---along  
3 with those others now named and to be named individually as plaintiffs---for themselves and others,  
4 submit this Complaint, as follows. The allegations in the complaint are based on the knowledge of  
5 the Plaintiffs as to themselves and as to conditions and acts which they have personally observed,  
6 and on information and belief, including the investigation of counsel, as to all other matters.

7 **PRELIMINARY STATEMENT**

8 1. This is a civil rights action in which the Plaintiffs, on behalf of themselves and a class of  
9 similarly situated individuals, seek relief for Defendants’ violations of Plaintiffs’ rights and  
10 privileges secured by the Fourth, Fifth, Eighth and Fourteenth Amendments of the United States  
11 Constitution.

12 2. Defendant SAN FRANCISCO COUNTY SHERIFF’S DEPARTMENT (“SFCSD”), from  
13 January, 2017 through to the present, has implemented a policy, practice and custom through  
14 which it has abandoned and abdicated its responsibility to house prisoners at San Francisco County  
15 Jail 4 in SFCSD’s custody in conditions of even minimal decency. On a regular basis, SFCSD  
16 literally causes the prisoners in its custody at San Francisco County Jail 4 to eat, sleep and live in  
17 pools raw sewage containing human feces and urine. In addition, Prisoners at San Francisco  
18 County Jail 4 are on a nearly daily basis denied fresh drinking water and toilet facilities for  
19 extended periods. Without the Court’s intervention, SFCSD will continue to implement this policy,  
20 practice and custom in violation of the Eighth Amendment.

21 3. This action seeks to end the barbaric conditions at San Francisco County Jail 4. These  
22 practices result in, among other injuries, intestinal and lung illnesses, severe skin rashes, traumatic  
23 injuries resulting from slipping in raw sewage, and psychological trauma and lasting psychological  
24 damage.

25 4. The practices complained of herein are cruel and inhumane and violate the most minimal  
26 standards of decency of a civilized society.

27 5. Plaintiffs bring this action for injunctive relief, and for monetary damages, individually and  
28 on behalf of all others similarly situated who have been and will be incarcerated in a San Francisco  
County Jail, and to redress all Defendants’ violations of their rights under the Eighth and Fourteenth  
Amendments of the United States Constitution.

1 **JURISDICTION**

2 6. This action is brought pursuant to the Eighth and Fourteenth Amendments to the United  
3 State Constitution, by way of the Civil Rights Acts, 42 U.S.C. §§1981, 1983 et seq., and § 1988.

4 7. Jurisdiction is conferred upon this Court by 28 U.S.C. §1331 (claims arising under the  
5 United States Constitution) and §1343 (claims brought to address deprivations, under color of state  
6 authority, of rights privileges, and immunities secured by the United States Constitution), and, by  
7 pendent jurisdiction, Secs. 52.1, and 50, of the California Civil Code and the aforementioned  
8 statutory and constitutional provisions.

9 8. Plaintiffs further invoke this Court's supplemental jurisdiction, pursuant to 28 U.S.C. §  
10 1367, over any and all state law claims and causes of action which derive from the same nucleus of  
11 operative facts and are part of the same case or controversy that gives rise to the federally based  
12 claims and causes of action.

13 9. Plaintiffs individually and as a group filed numerous government claims with the CITY  
14 AND COUNTY OF SAN FRANCISCO regarding their claims and the claims. The group claim  
15 was filed on July 30, 2018 and rejected on August 2, 2018.

16 **VENUE AND INTRADISTRICT ASSIGNMENT**

17 10. The claims alleged herein arose in the County of San Francisco, State of California.  
18 Therefore, venue and assignment, under 28 U.S.C. § 1391(b), lies in the United States District  
19 Court for the Northern District of California, San Francisco Division or Oakland Division.

20 **JURY DEMAND**

21 11. Plaintiffs respectfully demand a trial by jury of all issues in this matter pursuant to Fed. R.  
22 Civ. P. 38(b).

23 **PARTIES**

24 **PLAINTIFFS**

25 12. Plaintiffs are all former and current prisoners incarcerated at San Francisco County Jail 4.  
26 All Plaintiffs seek to represent a class of prisoners imprisoned at the San Francisco County Jail 4 at  
27 any time since January 4, 2017.

28 13. Plaintiffs CANDIDO ZAYAS, RUBEN SOTO, JOSE POOT, MILTON LECLAIRE,  
MATTHEW BRUGMAN, ALFREDO RUIZ, NIGEL HENRY, KISHAWN NORBERT AND  
MICHAEL BROWN have all been housed in A Block or B Block. MARK HILL and JAMES

1 CLARK are formerly incarcerated prisoners in San Francisco County Jail who were prison workers  
 2 at County Jail 4, required to handle and clean-up biohazardous spills, waste, and contaminated  
 3 materials without the necessary safety equipment such as jumpsuits, boots, respirator, gloves, and  
 4 most importantly. Plaintiff KISHAWN NORBERT is currently housed in Block D, around the  
 5 corner from the custodial closet where all the biohazard cleaning tools such as mops, the wet vac,  
 6 and other cleaning materials are stored. The biohazard contents which are vacuumed up with the  
 7 wet-vac are also emptied in that custodial closet.

### DEFENDANTS

#### San Francisco County Defendants

9 14. Defendant SAN FRANCISCO COUNTY SHERIFF'S DEPARTMENT ("SFCSD") and  
 10 defendant CITY AND COUNTY OF SAN FRANCISCO are each a "public entity" within the  
 11 definition of Cal. Govt. Code § 811.2.

12 15. Defendant VICKI HENNESSEY is, and at all times relevant to this Complaint was, the  
 13 Sheriff of San Francisco County. Defendant MATHEW FREEMAN is, and at all times relevant to  
 14 this Complaint was, the Under Sheriff of San Francisco County. Defendants HENNESSEY and  
 15 FREEMAN at times relevant to this Complaint held command and policy making positions with  
 16 regard to San Francisco County Jails, including San Francisco County Jail 4 and County Jail 5,  
 17 have caused, created, authorized, condoned, ratified, approved or knowingly acquiesced in the  
 18 illegal, unconstitutional, and inhumane conditions, actions, policies, customs and practices that  
 19 prevail at County Jail 4 and County Jail 5, as described fully below. Sheriff HENNESSEY and  
 20 Under Sheriff FREEMAN has, wholly or in part, directly and proximately caused and, in the  
 21 absence of the injunctive relief which Plaintiffs seek in this Complaint, will continue in the future to  
 22 proximately cause, the injuries and violations of rights set forth fully below. Defendants Sheriff  
 23 HENNESSEY and Under Sheriff FREEMAN are sued in their official capacity only.

24 16. Defendant Sheriff PAUL MIYAMOTO was and is at all times relevant to this Complaint,  
 25 the Chief Deputy Sheriff and been the individual ion charge of the Custody Division. The Custody  
 26 Division is charged with the operation of the San Francisco County Jails. As Chief Deputy Sheriff  
 27 in charge of the Custody Division, Defendant MIYAMOTO has at all times relevant to this  
 28 Complaint held a command and policy making position with regard to San Francisco County Jails.  
 Defendant Chief Deputy PAUL MIYAMOTO has caused, created, authorized, condoned, ratified,  
 approved or knowingly acquiesced in the illegal, unconstitutional, and inhumane conditions,

1 actions, policies, customs and practices that prevail at San Francisco County Jails 4 described fully  
2 below. Chief Deputy PAUL MIYAMOTO has, wholly or in part, directly and proximately caused  
3 and, in the absence of the injunctive relief which Plaintiffs seek in this Complaint, will continue in  
4 the future to proximately cause, the injuries and violations of rights set forth fully below. Chief  
5 Deputy PAUL MIYAMOTO is sued in his official capacity only.

6 17. Defendant JASON JACKSON is, and at all times relevant to this Complaint was, the  
7 Captain in charge of San Francisco County Jail 4. At all times relevant to this Complaint,  
8 Defendant JACKSON was an employee of the Sheriff who held supervisory, command and/or  
9 policy-making positions, and who participated in the supervision and execution of the conduct  
10 complained of herein. Defendant JASON JACKSON is sued in his official capacity only.

11 18. Defendants SARGEANT DOLLY is and at all times relevant to this Complaint, was an  
12 officer on duty at San Francisco County Jail 4 with direct control over plaintiffs and class members.  
13 Defendant Dolly is sued in his official capacity only.

14 19. Each and every Defendant named herein was at all times relevant to this Complaint an  
15 officer or employee of the San Francisco County Sheriff's Office, acting under the color of law  
16 within the meaning of 42 U.S.C. § 1983, and acting pursuant to the authority of ASCO and within  
17 the scope of their employment with ASCO.

### 18 **CLASS ALLEGATIONS**

19 20. Pursuant to Rules 23(a), (b)(2) and (b)(3) of the Federal Rules of Civil Procedure, the named  
20 Plaintiffs seek to represent a Plaintiff class consisting of all inmates incarcerated at San Francisco  
21 County Jail 4 ("SFCJ4") from January 4, 2017 to the present. All such inmates were forced to eat,  
22 sleep and live in pools of raw sewage including human feces and urine, were regularly deprived of  
23 fresh drinking water and toilet facilities, in violation of the Eighth and Fourteenth Amendments to  
24 the U.S. Constitution.

25 21. The members of the class are so numerous as to render joinder impracticable. SFCJ4 has a  
26 capacity of over 400 inmate and on information and belief assert that approximately 20,000 inmates  
27 are held each year at SFCJ4.

28 22. In addition, joinder is impracticable because, upon information and belief, many members  
of the class are not aware of the fact that their constitutional rights were violated and that they have  
the right to seek redress in court. Many members of the class are without the means to retain an

1 attorney to represent them in a civil rights lawsuit. There is no appropriate avenue for the  
2 protection of the class members' constitutional rights other than a class action.

3 23. The class members share a number of questions of law and fact in common, including, but  
4 not limited to:

5 a. whether the members of the class are forced to eat while standing in pools of raw sewage,  
6 including human feces and urine;

7 b. whether the members of the class are forced to sleep while the cells in which they are  
8 housed are flooded with raw sewage, including human feces and urine;

9 c. whether the members of the class are forced to live day after day in cells which are flooded  
10 with raw sewage, including human feces and urine;

11 d. whether the members of the class are regularly denied access to drinking water;

12 e. whether the members of the class are regularly denied access to toilet facilities;

13 f. whether the members of the class are regularly denied access to sanitary clothing;

14 g. whether the members of the class are regularly denied access to sanitary bedding;

15 h. whether the members of the class were forced to breathe air contaminated with bacteria,  
16 viral and fungal matter, due to the ever present sewage in the jail;

17 i. whether the members of the class were forced to handle and be in personal proximity with  
18 materials which had been contaminated with human biologic, hazardous waste;

19 j. whether SFCSD implemented a policy, practice and custom of allowing cells in which class  
20 members are housed to be flooded with raw sewage, including human feces and urine;

21 k. whether the members of the class were prevented from engaging in the right to file  
22 grievances against unlawful practices at SFCJ4.

23 24. The Plaintiffs' claims are typical of those of the class. Like the other members of the class,  
24 the Plaintiffs were victims of the Defendants' policy, practice, and/or custom of allowing cells in  
25 which SFCJ4 inmates are housed to be regularly flooded with raw sewage, including human feces  
26 and urine, of denial of drinking water and toilet facilities, and denial of sanitary clothing and  
27 bedding.

28 25. The legal theories under which the Plaintiffs seek relief are the same or similar to those on  
which all members of the class will rely, and the harms suffered by the Plaintiffs are typical of the  
harms suffered by the class members.

1 26. The Plaintiffs have a strong personal interest in the outcome of this action, have no conflicts  
2 of interests with members of the class, and will fairly and adequately protect the interests of the  
3 class. The Plaintiffs have all been subject to conditions of confinement that violate the Eighth and  
4 Fourteenth Amendments of the U.S. Constitution.

5 27. The Plaintiffs are represented by experienced civil rights and class action counsel.  
6 Plaintiffs' Counsel have the resources, expertise, and experience to prosecute this action. Plaintiffs'  
7 Counsel know of no conflicts among members of the class or between the attorneys and members  
8 of the class.

9 28. The Plaintiff class should be certified pursuant to Rules 23(b)(2) and 23(b)(3) of the Federal  
10 Rules of Civil Procedure because the Defendants have acted on grounds generally applicable to  
11 class members, the interests of the Plaintiffs and potential class members are aligned, and a class  
12 action is superior to other available methods for fairly and efficiently adjudicating the case.

13 **STATEMENT OF FACTS**

14 **Conditions For Inmates At SFCJ4**

15 29. Since January 4, 2017, the inmates of San Francisco County Jail 4 have been required to  
16 endure regular, frequent, and ongoing sewer overflows. These backups frequently cause sewage,  
17 feces, urine and other bio-hazardous materials to violently gush and spray out from the toilets into  
18 the cells. At other times, the backup is less violent and the sewage overflows from the toilets into  
19 the cells.

20 30. A Block consists of six cells, commonly called "tanks." The cells are numbered A1 through  
21 A6. Inmates held in A Block are confined to the tanks 24 hours a day, seven days a week, except  
22 for showers, which are allowed only infrequently, two to three times a week, and three hours of  
23 recreation or exercise time per week.

24 31. Cell A1 is a one person tank. Cells A2 through A6 six-person, one-room tanks. Each six-  
25 person tank has three bunk beds, a stainless steel sink and a toilet. Inmates assigned to sleep in the  
26 lower bunks on A Block have to store personal belongings on the floor.

27 32. Inmates assigned to sleep in the lower bunks on A Block have to sleep right next to the  
28 toilet.

33. B Block has a sewage system linked with A Block. B Block consists of six cells called  
"tanks". B Block also consists of seven tanks. B Block tanks are 12-person tanks. B Block tanks  
have two areas, a night area in which six bunk beds are placed, and a day area which contains a

1 table, some fixed stools, and a shower. Both the day area and night area have a toilet. The toilets in  
2 both areas frequently overflow, causing sewage to spray into the cell. Prisoners are kept in the B  
3 tanks 24 hours a day, 7 days a week, except for three hours of recreation per week.

4 34. The day space and night space are divided by metal bars, and at night the men are locked in  
5 the night area. The space between the six bunk beds in the night area of each tank on B Block is  
6 very tight. There is one aisle between two rows of three bunk beds each, with no other floor space  
7 in the tank. The toilet in the night areas is located in this aisle, immediately adjacent to inmates'  
8 beds.

9 35. C Block along with B Block is called "the mainline." C block also consists of 12-person  
10 tanks with configurations similar to that in B Block.

11 36. D block consists of 18 two man cells. E block consists of 5 one person cells, and F block  
12 consists of 3 one person cells. G block consists of 2 twelve man cells, and H block consists of 2  
13 twelve man cells. G block is used to house prison workers who do the jail clean-up and  
14 maintenance. L block has 3 cells, and those cells were also used to house prison workers.

#### 15 Sewage Overflows

16 37. Sewage overflows into the cells are chronic and frequent in A block and B block. While A  
17 Block and B block had sewage overflows more regularly, C block also suffered from sewage  
18 overflows. When a sewage overflow occurs at SFCJ4, it affects every inmate on the housing block  
19 in which it occurs. Each time there is a sewage overflow, inmates are without fresh drinking water  
20 and access to toilets. Each time there is a sewage overflow, the stink of raw sewage permeates the  
21 entire jail. Normally, raw sewage seeps from one Tank to the next under the walls. Walls and  
22 floors are saturated with sewage, and the accompanying bacteria, fungus, virus, other micro-  
23 organisms, and chemicals in sewage.

24 38. Mainline, as well as C and D Blocks, also experience sewage overflows.

25 39. Tank A1 floods more frequently than any other tank.

26 40. Due to the configuration of the plumbing at SFCJ4, when there is a sewage overflow, Tanks  
27 B1 and B2 flood at the same time. Likewise, Tanks B3, B4 and B5 also flood at the same time.

28 41. A sewer line runs through the walls behind the cells on both A Block and B Block. At times  
sewage erupts from the entire line in the walls and seeps into and through the walls, into all the cells  
A Block and B Block.



1 42. There is a sewer line under the wall of Tank B3. When that lines overflows, sewage seeps  
2 under the wall into the adjoining tanks. There is a narrow enclosed hallway in between A block and  
3 B block. When sewage overflowed, the sewage would flow into this hallway, and periodically the  
4 sewage would accumulate many inches.

5 43. The night toilet of Tank B3 overflows more frequently than the day toilet.

6 44. Even when a sewage overflow takes place in one tank, inmates in all of the tanks suffer  
7 from the stink of the feces and urine overflow. At times, SFCSD staff close the windows,  
8 preventing any ventilation, increasing the humidity, and worsening the already-unbearable stink.

9 45. For long periods of time, although sewage which has overflowed into the tanks is removed  
10 by the inmates, sewage inside the walls is not cleaned, but is instead left and allowed by Defendants  
11 to accumulate and fester. Even when the floor is wiped dry, the walls themselves stay damp with  
12 sewage which has soaked them from the inside.

13 46. Due to the chronic humidity and water and sewage left inside the walls at SFCJ4, mosquitos  
14 are breeding inside the jail.

15 47. Overflows are frequently rapid and violent, with the sewage exploding out of the toilets in a  
16 geyser. There is no forewarning. If an inmate is sitting on a toilet, he will have raw sewage, feces  
17 and other biohazards spraying on his genitals, rear, thighs and legs, contaminating his pants and  
18 clothes.

19 48. Deputies are stationed in such a way that they cannot see that a sewage overflowing from  
20 their stations when it occurs. Deputies are stationed in such a way that they cannot respond to a  
21 sewage overflow before substantial quantities of raw sewage have already inundated the tanks.

22 49. Deputies are stationed outside the hallway that runs in front of the cells, behind locked  
23 gates. Consequently, when a sewage overflow begins, prisoners have to yell “water, water, shut it  
24 off!” so that the Deputies can hear. If the Deputy on duty is farther away than the station in the  
25 hallway, or if the sewage starts to come into the cells at night, the response time is slower.

26 50. Once a Deputy is aware of the overflow, and once the Deputy decides to do something  
27 about it, the Deputy has to unlock a closet and shut off all water to the tanks in order to stop raw  
28 sewage from further inundating the tanks.

51. Frequently the Deputies do not hear these yelled alarms and pleas for help. In those  
frequent instances, the raw sewage continues to flood the inmates’ living spaces.

1 52. When Deputies do hear these yelled alarms and pleas for help, the water is shut off, and  
2 inmates have no means to wash their hands, or clean the tanks of sewage.

3 53. When Deputies do hear these yelled alarms and pleas for help and shut the water off,  
4 inmates have no access to drinking water and no means to relieve themselves.

5 54. Prisoners in A block often who are sprayed by feces and urine during sewer overflows are  
6 generally not provided access to a shower and must wait long periods of time for a clean change of  
7 clothes.

8 55. Even in cells, where the sewage is not overflowing, because when the sewage overflows,  
9 there is no appropriate method of removing the biohazards, and then insuring that all surfaces are  
10 appropriately sanitized, and biohazard fluids are left in the junction between the walls and between  
11 the walls and the floor, and seeped into the floor

12 56. The San Francisco Sheriff's Department and the Sheriff, Defendant Hennessey have  
13 conceded that the sewage overflows and resulting inundation of inmate living areas with human  
14 feces, urine and other biohazardous waste is caused by a structural plumbing issue at 850 Bryant  
15 Street, the building that houses SFCJ4.

16 **EFFECTS ON INMATES OF**  
17 **CHRONIC EXPOSURE TO RAW SEWAGE**

18 57. Despite years of sewage overflows, which came into contact with walls, beds, floors, air  
19 ducts and other infrastructure at County Jail 4, Defendants have never appropriately cleaned and  
20 more importantly sanitized County Jail 4 to ensure that bacteria, fungus and viruses were  
21 eliminated, including the materials which came into repeated contact with the sewage, including  
22 walls and flooring.

23 58. Prisoners at SFCJ4 suffer from a number of illnesses as a result of constant exposure to  
24 raw, untreated sewage and constant exposure to the bacteria, viruses, parasites and other  
25 microorganisms and biohazardous substances present in raw sewage. These illnesses include, but  
26 are not limited to, chronic intestinal diarrhea, vomiting, nausea, skin rashes, hives, headaches,  
27 rashes, inflammation, headaches, infections and inflammation around finger and toe nails,  
28 respiratory problems including chronic lung and sinus infections and congestion, difficulty  
breathing, coughs. Inmates have also developed urinary tract infections and other urinary tract  
problems from being repeatedly forced to hold their urine due to the unavailability of toilets when  
the water is shut off for long periods of time.

1 59. Prisoners with breathing problems, such as asthma, continue to have issues and difficulty  
2 with breathing. Defendants have failed not only to appropriate remediate, but have also failed to  
3 provide the necessary medical care for these ongoing conditions.

4 60. Muslim inmates who pray have developed rashes on their hands, elbows and forehead from  
5 kneeling on the floor after it has supposedly been cleaned and disinfected. Many inmates have  
6 developed scarring due to these rashes.

7 61. Defendants failed to provide for an appropriate location and method of disposing of the  
8 biohazardous waste. The wet-vacs were simply emptied in a custodial closet. Brooms, mops and  
9 other cleaning implements were not sanitized, and these implements were put back into service for  
10 routine cleaning, spreading the bacterial, viruses and fungal matter. Prisoners shoes were not  
11 sanitized, particularly the plastic shoes of inmate workers, who then walked around the jail,  
12 tracking this biohazardous waste throughout the jail.

13 62. Inmate workers such as Plaintiff Clark were required to clean-up the biohazard which  
14 flowed into the jail's common areas, such as the hallways, and in the hall between A block and B  
15 block. Inmate workers did so without the necessary safety equipment such as jumpsuits, boots,  
16 respirator, gloves, and most importantly. As Inmate workers, they received no training on the  
17 appropriate ways to clean-up biohazardous materials. As, Inmate workers, they received no  
18 training on how to handle biohazardous waste to avoid self-contamination.

19 63. All prisoners at County Jail 4, even those who were not housed in the cell which had the  
20 sewage overflow, suffered from the sewage biohazards. For example, for those like Plaintiff  
21 Norbert, housed in D block, the biohazard contents which are vacuumed up with the wet-vac are  
22 emptied in the custodial closet at the end of their block. Every time there is a sewage or biohazard  
23 clean-up, the organic compounds, the bacteria, fungus and viruses become air borne, and those  
24 prisoners' cells are permeated with the organic compounds of biohazards, in which cells they are  
25 held in custody 24/7 except for gym for 3 hours a week and showers twice a week. These prisoners  
26 are forced to breathe, eat and sleep with the biohazard organic compounds in the air; with their  
27 immediate surroundings permeated by biohazards. This is the same for prisoners in a tank where  
28 another cell in the tank has a sewage overflow. Biohazards and their organic compounds vaporize  
and permeate the air. This is particularly so when the overflow is explosive, and the sewage shoots  
up out of the toilet.

Slip and Fall Injuries In Raw Sewage Are Common

1  
2 64. Many inmates at SFCJ4 have slipped and fallen, due to the unexpected, sudden nature of the  
3 sewer overflows and the slippery nature of liquid sewage with human feces in it. Most have  
4 suffered injuries, including hitting their head on the concrete floor or walls.

5 65. As an example, Plaintiff Roger Dominguez was on the telephone, which is next to the toilet  
6 in his Tank. An explosive sewer overflow suddenly erupted from the toilet. Mr. Dominguez  
7 attempted to quickly get out of the way of the rapidly overflow of sewage with feces in it, slipped  
8 and hit his head on the floor violently. His head was coated in raw sewage and feces. Mr.  
9 Dominguez vomited, saw stars for twenty minutes, and had headaches as a result for three weeks.  
10 Mr. Dominguez was denied a shower for over five hours, and as a result developed a rash on his  
11 rear and genital area. Mr. Dominguez received no medical treatment for his head trauma or the  
12 rash.

13 66. Plaintiff Milton LeClaire fell badly in raw sewage, damaging his knees. The Jail has  
14 refused to even allow him to use a cane. As a result, Mr. LeClaire has been unable to even take  
15 advantage of the three hours of gym time permitted per week. The tanks do not have disability  
16 bars, and there are no bars in the shower. Mr. LeClaire requested a chair in order to be able to  
17 safely shower, but a chair is not always provided.

Health Problems Are Common

18 67. When the sewage overflows, organic compounds, malodorous chemicals, bacteria and  
19 viruses and other microorganisms spread throughout the jail through transportation through the air,  
20 materials tracked throughout the jail on the shoes of inmates and Inmate workers, through dispersal  
21 on laundry as blankets and bedding are used to sop up the raw sewage and these materials are then  
22 washed in tandem with the laundry for all prisoners. As a result, skin rashes and respiratory illness  
23 as well as infections are common.

24 68. Even for those prisoners who were not housed in cells with direct sewage overflows had  
25 negative health impacts because anytime sewage overflowed, the sewage would become partially  
26 vaporized, and the organic molecules would become airborne. The stench of the sewage filled the  
27 jail, and all prisoners had to breathe this air polluted with bacterial, viral and fungal matter.

Trauma and Psychological Distress Are Endemic

28 69. These chronic but unpredictable sewer overflows are causing trauma and psychological  
distress among inmates, who exist in a battlefield-like stress environment where they must be on

1 constant alert. This is particularly difficult because sewage overflows can and do occur at any time  
2 of the day or night. At night, prisoners are unable to sleep soundly out of fear that the toilet can  
3 overflow. Consequently, inmates have to be on guard, while they sleep, to listen for the sound of  
4 water overflowing out of the toilet.

5 70. Prisoners are forced and required to eat their meals inside the tanks. As a result of being  
6 forced to eat under such circumstances, many prisoners have developed stress-related symptoms.

7 71. When a sewage spill occurs at or around the time that meals are scheduled to be distributed,  
8 inmates are required to walk across the floor, through raw sewage, to get their food. A Block tanks  
9 do not have tables and chairs. A Block inmates therefore have to stand, frequently in raw sewage  
10 up to and above their ankles, to eat. Many inmates cannot hold down their food under such  
11 circumstances. Those inmates' vomit, adding to the intolerable and toxic conditions in the tanks.'

#### 12 Loss and Damage to Personal Property

13 72. The cells in Jail 4 do not have storage, except for one small slot under each bed. There is no  
14 place to put personal belongings except on the bed or on the floor. The only place in the A block to  
15 sit is on the bunk, and when an inmate is sitting on the bunk, his personal belongings has to be  
16 placed on the floor. As a result, due to the unexpected and sometimes explosive and rapid sewage  
17 overflows, inmates' personal property, and legal papers are damaged and must be discarded. Due  
18 to the frequent sewage overflows, inmates who wished to represent themselves were unable to do so  
19 because they could not protect or keep safe and clean their legal papers. Inmates who had lawyers  
20 but wished to assist their lawyers were frequently unable to assist their lawyers because they had no  
21 way to protect or keep safe and clean their legal papers.

#### 22 SFCSD's Response

23 73. Prisoners have regularly filed grievances concerning being forced to literally live, eat and  
24 sleep in raw sewage. In March, 2017, some inmates wrote a group grievance. In response the  
25 acting Facility Commander posted in each Tank in B Block a protocol ("Clean-Up Protocol") for  
26 clean-up of sewer overflows. The Clean-Up Protocol mandated the issuance both of hazmat suits  
27 and of supplies adequate to ensure that conditions were sanitary after clean-up was complete.

28 74. Although it issued the Clean-Up Protocol, SFCSD did not comply with it. The Clean-Up  
Protocol was never followed when sewage overflows occurred at night.

75. After one month, SFCSD abandoned the Clean-Up Protocol completely.

1 76. When a sewage spill occurs, inmates have been prompted to use the blankets off their beds  
2 to immediately try to contain and soak up the sewage. Sometime later, inmate workers will come  
3 and provide a minimum amount of supplies, including thin latex gloves which frequently break,  
4 black plastic bags and sometimes additional blankets. Clean-up after a sewage overflow is  
5 sometimes done by inmate workers but most often by the inmates who are housed in the tank which  
6 was flooded. Inmates housed in B Block do the majority of the cleaning on B Block with only  
7 minimal supplies. Prisoners require but seldom receive extra gloves. Inmates are provided with  
8 blankets or bedding to sop up liquid sewage and feces – the same blankets and bedding which they  
9 use for sleeping. Prisoners are to use their hands to pick up the feces and sewage soaked blankets  
10 and place them in the black plastic bags. After the liquid sewage and feces are removed, inmates  
11 are given a plastic bottle with some pink solution and a dirty used mop to “sterilize” the floor.

12 77. Inmate workers – as opposed to inmates who are housed in the flooded cells - can use a wet-  
13 vac to suck up the sewage off the floor. However, there are only two such wet-vacs and each has a  
14 limited capacity. Also, prison workers were not allowed to enter individual cells, and so the wet-  
15 vac could only be used on the hallways, unoccupied cells, and other common areas.

16 78. Prison workers, primarily those housed in G block, who were responsible for clean-up,  
17 would be dispatched to clean these common areas. However, none of these workers, and none of  
18 the prisoners inside cells were provided with appropriate bio-hazard protective clothing, shoes,  
19 respirators, or other necessary protective gear to prevent them from coming into contact with these  
20 bio-hazards. Prisoners, including prison workers were only provided with plastic “Croc” type  
21 shoes, that had perforations on the top and permitted these wet biohazardous wastes to contaminate  
22 their feet. Prisoners also had no means to sanitize nor clean their shoes. Prison workers, given no  
23 protective clothing, were required to wear their normal prison clothing through-out their shift, and  
24 were only provided clean clothing after the end of a day’s cleaning. Therefore, inmate workers  
25 came into daily contact with the sewage and biohazardous materials.

26 79. The blankets collected are reused – washed in the same system as all other laundry. The  
27 blankets are returned supposedly “cleaned” with large and significant brown stains. The laundry  
28 equipment at County Jail 4 was old, antiquated and not up to the task. Soon, a newer machine was  
purchased, but due to the inadequate sewage system, the laundry could not accommodate a large  
commercial washer, but only a smaller front loader. Then when the two older, larger sized  
commercial washers failed to function, that left only the smaller front loader to do all the wash. In

1 order to meet the laundry requirements of the jail, prison workers then were forced to over stuff that  
2 one remaining machine, and so laundry, including these biohazardous contaminated materials, did  
3 not get clean.

4 80. Laundry was performed by prison workers. The contaminated blankets and clothing were  
5 brought into the laundry area in plastic bags. Prison laundry workers were not provided with  
6 necessary nor appropriate biohazard protective clothing, and only had short nylon gloves that  
7 reached their wrist, with which to handle this biohazard contaminated material. As a result,  
8 prisoner workers came into close contact with this biohazardous material, including on their arms,  
9 on the front of their clothing, and often these contaminated materials fell on their shoes.

10 a. In Spring, 2017, sheriff deputies encouraged prisoners to fill out and submit grievance forms  
11 for these conditions. Prisoners were told that the sheriff hoped these grievances would prompt the  
12 City to provide funds necessary to repair or otherwise remedy this situation. Yet, defendant County  
13 and City of San Francisco, despite multiple, and repeat grievance forms regarding this deplorable  
14 and inhumane situation, failed and refused to allocate the necessary funding for repair and/or  
15 amelioration of the sewage overflow problems, and defendant Sheriff failed to take appropriate  
16 affirmative measures, including allocation of funds within said defendant's budget to repair the  
17 sewage overflows. Nor did the Sheriff take affirmative actions to move prisoners out of the cells  
18 directly impacted by the sewage overflows.

19 81. In June, 2018, the Sherriff's Department issued a statement to inmates declaring that  
20 "[R]epair improvements have been authorized but not yet implemented. Repairs should begin  
21 shortly."

22 82. On June 20, 2018, the Sheriff stated that "Plumbing repairs should begin shortly, with repair  
23 completion by mid-August." As of mid-September, no repairs have been made.

24 83. The Sherriff's Department has consistently avoided taking responsibility for safely housing  
25 the inmates currently at SFCJ4 by stating that "the delay is beyond the control of the Sheriff's  
26 Dept."

27 84. Beginning in July 2018, CFJ4 staff issue a standard response to grievances, which reads:  
28 "On behalf of the San Francisco Sheriff's Department, I apologize for the ongoing inconveniences  
regarding this matter. The Sheriff's Bureau of Building Services and the City and County of San  
Francisco's Real estate Division are in the process of attempting to resolve this matter."

1 85. Some of the inmates have been moved out of Jail 4 into Jail 5. As a result of the move, the  
2 inmates who are now in Jail 5 are now housed in glass boxes, have very limited access to  
3 telephones, have severely reduced access to exercise or human interaction and are housed in these  
4 glass boxes for up to 23 hours a day.

#### 5 Sewage Overflows

6 86. The following is a partial log of sewage overflows over the last three and one half months:

7 87. June 1, 2018: Tank A-3 had a sewer overflow. It was a rapid eruption contaminating the  
8 persons and personal property of prisoners in A-3.

9 88. June 4, 2018: Tank A-3 had a sewer overflow. It was a rapid eruption contaminating the  
10 persons and personal property of prisoners in A-3.

11 89. June 5, 2018: Tank A3 had a sewer overflow.

12 90. June 6, 2018: Sewer overflowed twice in Tank A3.

13 91. June 16, 2018: Toilets in A Block were overflowing and the water was shut down all day.  
14 All inmates had to hold their bowels and could not wash their hands. This created great discomfort  
15 especially as many of the prisoners were already sick.

16 92. June 20, 2018: Raw sewage overflowed at 10:30 a.m. in Tank A3, including blood, feces,  
17 paper and urine in what is the only "living space" for six prisoners. All water was off for five to six  
18 hours. The tank was saturated. Prisoners were denied access to the toilet and to water for the entire  
19 period of time.

20 93. June 24, 2018: Raw sewage overflow in A-3. Tanks are not sanitized; no bleach is used.  
21 Blankets are used to clean up the sewage.

22 94. June 25, 2018: Another sewage overflow in A-3. No sanitization.

23 95. June 27, 2018: Raw sewage saturated the floor and living quarters of A3.

24 96. June 28, 2018: Sewage flood of A4. Prisoners lost personal property and canteen goods.  
25 One prisoner was on the toilet and was covered from the waist in raw sewage.

26 97. July 1, 2018: Sewage filled the toilets, making the jail stink of feces and urine. The water  
27 was off for most of the day and inmates did not have access to toilets or even drinking water.

28 98. July 3, 2018: Water off, although not clear which Tank had a sewage overflow.

99. July 6, 2018: Two sewage overflows, from 9:30 – 10:30 am, and from 6:40 – 8:30 p.m.  
Raw sewage with feces and urine was on the floor of A3 for over an hour before it was cleaned up.  
Prisoners were forced to use their bedding and blankets in an attempt to contain the sewage.



1 100. July 9, 2018: Overflow, with a big flood of sewage pouring out all over the floor of A3.  
2 Impossible to properly clean, or wash hands.

3 101. July 10, 2018: Sewage overflow spill in A-block from 1:30 p.m. to 2:45 p.m.

4 102. July 10, 2018: Sewage overflow, inmate's commissary goods is contaminated and left  
5 unusable and inedible.

6 103. July 12, 2018: Sewage spill in A-block.

7 104. July 13, 2018: Two sewage spill in A-block 8:50 - 10 am, and at 6 p.m.

8 105. July 14, 2018: A Block sewage overflow 8:50 pm – 10 pm.

9 106. July 15, 2018: A Block sewage overflow and all water was off 12 noon – 5 p.m. A second  
10 sewage spill occurred at 1 a.m. The deputies were short tempered and roughed up an inmate for  
11 requesting to be taken out of his tank to use the bathroom.

12 107. July 19, 2018 – Sewage overflow in A3.

13 108. July 24, 2018 – Sewage overflow in A3 9:15 pm-11:30 pm. Sewage flood in A-4. Water  
14 so high feces were floating in the cell. Prisoners could not breathe because of foul odor. Many lost  
15 shoes, which were damaged and contaminated.

16 109. July 25, 2018 Sewage filled A block, really foul smell, lasting from 8am – 11:45 am. No  
17 water, bathroom access.

18 110. July 27, 2018: Sewage overflow in A-4. Inmate Candido Zayas was on the toilet when it  
19 occurred, and was covered on his genitals, thighs and pants with sewage and feces. He slipped and  
20 fell while getting up, hit his head, and got sewage all over him.

21 111. July 29, 2018: Sewage overflow, all A Block water shut off for hours.

22 112. July 31, 2018: Raw sewage saturated the floors of A3 all day. First overflow and flood at  
23 7:45 am, with a second sewage overflow at 4:20 p.m.

24 113. August 1, 2018: Massive sewage overflow at 7:00 pm in A3.

25 114. First Week of August, 2018; 5 Sewage overflows in one day 6 pm, 7:45, 8 pm, 10 pm.  
26 Sewage overflowed in the wall behind the B and C blocks. Sewage was more than ankle deep. The  
27 entire “main line”, including C and D Blocks, was flooded by sewage.

28 115. August 5, 2018: Sewage flood in A1. The flooding began around 3:45am, response time  
was slow, problem not fixed until after 7 am.

116. August 6, 2018: Raw sewage in A block, covering the floor with feces, blood, toilet paper,  
urine. Feces and urine flooded the floor in A-1, A-2 and A-3. Prisoners were forced to clean it up

1 themselves by putting their blankets on to stop the water from spreading. Candido Zayas was only  
2 provided with one pair of gloves, no face mask, and no bleach.

3 117. August 7, 2018: Sewage overflow with feces in A-3.

4 118. August 8, 2018: Hot day – all water, including toilets and drinking water, is off for a long  
5 period of time.

6 119. August 9, 2018: Sewage overflow in A1 and A3 at about 3:30 p.m.

7 120. August 10, 2018: Sewage overflow in A-3. After turning off the water, Deputies for over  
8 an hour ignored the prisoners' repeated requests before finally providing tools and minimal supplies  
9 to clean up the sewage. Raw sewage, water and feces on the floor.

10 121. August 13, 2018: Deputies delay over five minutes to turn off water after sewage starts  
11 overflowing, resulting in a significant amount of feces, urine and used toilet paper on the floor for a  
12 long period of time.

13 122. August 15, 2018: Two sewage overflows. First around 3 a.m. in A block, all the water and  
14 sewage were shut off. No one on A block could use the toilet, or have access to drinking water for  
15 approximately four hours. The floor deputy was requested multiple times to provide water and  
16 access to a toilet, and refused to do so. Second sewage overflow in A Block about 11:00am, water  
17 was off again from 11 a.m. to 1 p.m.

18 123. August 16, 2018: Sewage overflow in A block. Water was off from 8:30 p.m. to 2:30 a.m.  
19 Staff denied requests to be taken out of tanks to use a toilet.

20 124. August 17, 2018: Sewage overflow from 11:00 am – 12:30 p.m. No water or toilet access  
21 during this time.

22 125. August 19, 2019: Sewage overflow in Tank A2 at 8 a.m. Feces and urine on the floor.  
23 Staff gave blankets to sop up the water and feces, and a pink solution to clean. A dirty mop, which  
24 appears to be the same mop used for all sewage spills, was provided. The mop did not appear to  
25 have been cleaned or disinfected since its last use. A second sewage spill between 6 p.m. and 7  
26 p.m.

27 126. August 20, 2018: Sewage overflow in A block from 9 p.m. to 12 a.m. The sewage flood  
28 reached almost 4 inches.

127. August 21, 2018 Water off from 5 p.m. to 6 p.m.

128. August 22, 2018: Sewage overflow in A4. Blankets and bedding materials used to soak up  
urine and feces.

1 129. August 23, 2018: Water off for an hour 10:00 – 11:00.

2 130. 120. August 24, 2018: Sewage overflow in Tank A1. Water off for over 3 hours starting  
3 at 7:45, inmates had no access to the bathroom for over that time.

4 131. August 25, 2018: Tank A3 water off in the morning, sewage overflow in Tank A4 in the  
5 evening with feces on the floor. No access to the toilet or water during this period of time.

Blankets and bedding materials used to soak up urine and feces.

6 132. August 26, 2018: Sewage overflow in Tank A4. Water off from 7:30 - 9:30 am. Blankets  
7 used to sop up the water and feces, and a pink solution to clean. The same dirty mop used for all  
8 sewage spills, and which had not been cleaned or disinfected, was provided. A second spill  
9 occurred from 1:45 to 3:30 p.m.

10 133. August 27, 2018: Sewage overflow in A block for four hours. No drinking water or toilets  
11 available.

12 134. August 28, 2018: Sewage overflow in A3 – lunch was served at the same time. Prisoners  
13 unable to eat, nauseous.

14 135. August 29, 2018: Sewage overflow in both A Block and B Block.

Applicable Community Standards

15 136. SFCJ4’s treatment of prisoners falls far short of acceptable conditions under the United  
16 States Constitution. The Eighth Amendment to the U.S. Constitution requires that correctional  
17 facilities “must ensure that inmates receive adequate . . . shelter . . . .” Foster v. Runnels, 554 F.3d  
18 807, 812 (9th Cir. 2009) quoting Farmer v. Brennan, 511 U.S. 825, 832 (1994)

19 137. California Gov’t Code § 835(a) provides that “a public entity is liable for injury caused by a  
20 dangerous condition of its property if the plaintiff establishes that the property was in a dangerous  
21 condition at the time of the injury, that the injury was proximately caused by the dangerous  
22 condition, that the dangerous condition created a reasonably foreseeable risk of the kind of injury  
23 which was incurred” and a “negligent or wrongful act or omission of an employee of the public  
24 entity within the scope of his employment created the dangerous condition . . . .”

25 138. California Health & Safety Code § 101045 contemplates that “the sanitation requirements  
26 required . . . for restaurants . . . .” shall be maintained in “all local jails and detention facilities”.

27 139. The California Code of Regulations, Title 15, § 1280, mandates that SFCSD “shall” develop  
28 and adopt “procedures for the maintenance of an acceptable level of cleanliness, repair and safety  
throughout the facility” and “correct unsanitary or unsafe conditions” at SFCJ4.

Defendant City And County Of San Francisco's Deliberate  
Disregard Of This Dangerous Condition And Risk Of Harm To Plaintiffs

1  
2  
3 140. County Jail 4 was constructed and finished as part of the current San Francisco Hall of  
4 Justice, in 1961. The City and County has long acknowledged that the heavily used facility was  
5 dilapidated, seismically unsafe, and in need of replacement. In 2015, the Board of Supervisors  
6 rejected an effort to build a new facility, and consequently lost a state grant of \$80,000,000 from the  
7 State Board of Standards and Community Corrections. Instead, the Board of Supervisors passed  
8 Resolution 2-16 creating the Work Group to Re-envision the Jail Replacement Project within the  
9 City's Department of Public Health, with the task to develop a plan to close County Jail 4. Now, 4  
10 years later, County Jail 4 is still in use, and the health and safety of the prisoners have been  
11 jeopardized for over 4 years, and continue to be jeopardized. Defendants continued insistence on  
12 housing prisoners in County Jail 4 and failure and refusal to remedy the health and safety issues of  
13 County Jail 4 constitute deliberate disregard of the constitutional rights of prisoners, of whom over  
14 80% are pretrial and pre-sentencing.

**FIRST CLAIM FOR RELIEF**

**DEPRIVATION OF FEDERAL CIVIL RIGHTS**

**UNDER 42 U.S.C. § 1983 AGAINST SFCSD**

15  
16  
17 141. Plaintiffs repeat and re-allege each and every allegation contained in the above paragraphs  
18 with the same force and effect as if fully set forth herein.

19 142. At all relevant times herein, SFCSD has been responsible for operating the San Francisco  
20 County Jail 4.

21 143. At all relevant times herein, Defendant SFCSD has established and/or followed policies,  
22 procedures, customs, and or practices, and those policies were the cause of violation of the  
23 Plaintiffs' and the class members' constitutional rights granted pursuant to 42 U.S.C. § 1983,  
24 including those under the Eighth and Fourteenth Amendments.

25 144. At all relevant times herein, SFCSD has followed a custom, policy and practice of allowing  
26 prisoner cells in SFCJ4 to be flooded on a regular and sometimes daily basis with raw sewage  
27 including but not limited to human feces, urine and blood.

28 145. At all relevant times herein, SFCSD has followed a custom, policy and practice of causing  
inmates to be housed in cells that are flooded with raw sewage including but not limited to human  
feces, urine and blood.

1 146. At all relevant times herein, SFCSD has followed a custom, policy and practice of causing  
2 inmates to sleep in cells that are flooded with raw sewage including but not limited to human feces,  
3 urine and blood.

4 147. At all relevant times herein, SFCSD has followed a custom, policy and practice of causing  
5 inmates to eat in cells that are flooded with raw sewage including but not limited to human feces,  
6 urine and blood.

7 148. At all relevant times herein SFCSD has followed a custom, policy and practice of causing  
8 inmates to clean cells that are flooded with raw sewage including but not limited to human feces,  
9 urine and blood without proper training or supervision on handling toxins, or biohazardous wastes.

10 149. At all relevant times herein SFCSD has followed a custom, policy and practice of causing  
11 inmates to clean cells that are flooded with raw sewage including but not limited to human feces,  
12 urine and blood without adequate or necessary equipment or gear or adequate or necessary  
13 protective clothing or equipment.

14 150. At all relevant times herein, SFCSD has followed a custom, policy and practice of causing  
15 inmates to clean cells that are flooded with raw sewage including but not limited to human feces,  
16 urine and blood with their own bedding.

17 151. At all relevant times herein, SFCSD has followed a custom, policy and practice of causing  
18 inmates' bedding contaminated with raw sewage raw sewage including but not limited to human  
19 feces, urine and blood to be comingled and laundered with all the regular laundry at the jail and  
20 returned to use by inmates without proper or necessary cleaning and sanitation.

21 **SECOND CLAIM FOR RELIEF**

22 **NEGLIGENCE**

23 152. Plaintiffs repeat and re-allege each and every allegation contained in the above paragraphs  
24 with the same force and effect as if fully set forth herein.

25 153. At all relevant times herein, SFCSD had a legal duty to provide maintain housing with  
26 sewage facilities sufficient to allow inmates to live, eat, and sleep in sanitary conditions.

27 154. At all relevant times herein, SFCSD had a legal duty to maintain facilities at SFCJ4  
28 sufficient to allow inmates to live, eat, and sleep in areas not inundated with raw sewage including  
human feces, urine and blood.

1 155. At all relevant times herein, the SFCSD failed to exercise the ordinary care or skill in the  
2 management of the property at 850 Bryant Street which is required to maintain facilities sufficient  
3 to prevent the regular and sometimes daily flooding of portions of 850 Bryant Street with raw  
4 sewage including human feces, urine and blood.

5 156. At all relevant times herein, SFCSD's failure to exercise such ordinary care or skill in the  
6 management of the property at 850 Bryant Street resulted and was the proximate cause of the  
7 regular and sometimes daily flooding of the living quarters of inmates at SFCJ4 with raw sewage  
8 including human feces, urine and blood.

9 157. At all relevant times herein, named Plaintiffs and class members herein have been injured  
10 by the regular and sometimes daily flooding of the living quarters of inmates at SFCJ4 with raw  
11 sewage including human feces, urine and blood that was and continues to be caused by SFCSD's  
12 failure to exercise the ordinary care or skill in the management of the property at 850 Bryant Street.

13 158. At all relevant times herein, named Plaintiffs' and class members' injuries proximately  
14 caused by SFCSD's failure to exercise ordinary care or skill in the management of the property at  
15 850 Bryant Street include, but are not limited to, chronic intestinal diarrhea, vomiting, nausea, skin  
16 rashes, hives, headaches, rashes, inflammation, headaches, infections and inflammation around  
17 finger and toe nails, respiratory problems including chronic lung and sinus infections and  
18 congestion, difficulty breathing, coughs, and urinary tract infections, and damage and loss of  
19 personal property and legal documentation.

20 **THIRD CLAIM FOR RELIEF**

21 **NEGLIGENCE PER SE**

22 159. Plaintiffs repeat and re-allege each and every allegation contained in the above paragraphs  
23 with the same force and effect as if fully set forth herein.

24 160. By regulation, CCR Title 15, § 1280, SFCSD is required to develop, adopt and maintain  
25 "procedures for the maintenance of an acceptable level of cleanliness, repair and safety throughout  
26 the facility" and "correct unsanitary or unsafe conditions" at SFCJ4.

27 161. At all relevant times herein, SFCSD violated CCR Title 15, § 1280 by failing to develop,  
28 adopt and maintain "procedures for the maintenance of an acceptable level of cleanliness, repair and  
safety throughout the facility" and by failing to "correct unsanitary or unsafe conditions" at SFCJ4.

162. At all relevant times herein, SFCSD's violation of CCR Title 15, § 1280 and its failure to  
develop, adopt and maintain "procedures for the maintenance of an acceptable level of cleanliness,

1 repair and safety throughout the facility” and to “correct unsanitary or unsafe conditions” at SFCJ4  
2 was the proximate cause of regular and sometimes daily flooding of the living quarters of inmates at  
3 SFCJ4 with raw sewage including human feces, urine and blood and of illnesses and injuries  
4 suffered by inmates as a result of continual and prolonged exposure to raw sewage.

5 163. Flooding of the living quarters of inmates at SFCJ4 with raw sewage including human feces,  
6 urine and blood and of illnesses, and inmates’ injuries suffered as a result of continual and  
7 prolonged exposure to raw sewage, are occurrence of the nature which CCR Title 15, § 1280 was  
8 designed to prevent.

9 164. Plaintiffs and class members, all inmates or former inmates at SFCJ4, are of the class  
10 persons for whose protection CCR Title 15, § 1280 was adopted.

11 **FOURTH CLAIM FOR RELIEF**

12 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

13 165. Plaintiffs repeat and re-allege each and every allegation contained in the above paragraphs  
14 with the same force and effect as if fully set forth herein.

15 166. SFCSD conduct in adopting a policy, custom and practice of housing inmates in living  
16 quarters in which they are forced to live, eat and sleep in the constant fear of toilets unpredictably  
17 gushing and spewing raw sewage including human feces, urine and blood and of illnesses, of such  
18 raw sewage seeping out of walls into the cells in which they are kept 24 hours a day, is extreme and  
19 outrageous conduct that intentionally or recklessly disregards the probability of causing emotional  
20 distress.

21 167. SFCSD’s policy, custom and practice of housing inmates 24 hours a day in living quarters in  
22 which they are forced to live, eat and sleep with the constant threat of chronic and unpredictable  
23 sewer overflows and exposure to raw sewage including human feces, urine and blood is the  
24 proximate cause of Plaintiffs’ and class members’ severe and extreme emotional trauma and  
25 distress.

26 168. SFCSD’s policy, custom and practice of housing inmates 24 hours a day in living quarters in  
27 which they are forced to live, eat and sleep with the constant threat of chronic and unpredictable  
28 sewer overflows and exposure to raw sewage including human feces, urine and blood exceeds all  
29 bounds of conduct that is usually tolerated in a civilized community.

**PRAYER FOR RELIEF**

**WHEREFORE,** Plaintiffs respectfully request the Court to:

1 1. Certify the Class of inmates at SFCJ4 under F.R.C.P. Rule 23, and permit the named  
2 plaintiffs and their counsel to represent the Class and to proceed accordingly.

3 2. Make findings of fact regarding the (i) failure of SFCSD to maintain an acceptable level of  
4 cleanliness, repair and safety throughout SFCJ4 and (ii) failure to correct unsanitary or unsafe  
5 conditions at SFCJ4.

6 **A. Prohibit defendants from:**

7 a. housing inmates in any San Francisco County Jail Cell which is exposed (including  
8 contaminated air from aerosol or vaporized organic compounds originating in biohazardous waste)  
9 to raw sewage including but not limited to human feces, urine and blood;

10 b. forcing inmates to eat in cells that are exposed to raw sewage including but not limited to  
11 human feces, urine and blood;

12 c. forcing inmates to sleep in cells that are exposed to with raw sewage including but not  
13 limited to human feces, urine and blood;

14 d. forcing inmates to clean cells that are flooded with or exposed to raw sewage including but  
15 not limited to human feces, urine and blood with their own bedding; and,

16 e. assigning inmate workers or staff workers clean cells that are flooded with or exposed to  
17 raw sewage including but not limited to human feces, urine and blood, absent proper training and  
18 supervision in handling biohazards and human waste, and the appropriate and necessary protective  
19 clothing and gear.

20 **B. Affirmatively Order and direct defendants to:**

21 a. Fully comply with all applicable state statutes and regulations, specifically those requiring  
22 the SFCSD to maintain an acceptable level of cleanliness, repair and safety throughout the facility  
23 SFCJ4 and to correct unsanitary or unsafe conditions, and,

24 b. Thoroughly sanitize and disinfect all areas of Jail 4 and any other Jail facility that has been  
25 exposed to sewage including but not limited to human feces, urine and blood; and,

26 c. Not penalize any plaintiff or potential class member who complained or filed grievances  
27 against the complained of the sewage spills or resulting conditions, or requested medical assistance  
28 for any consequence due to the sewage spills;



1 d. Provide, at no charge, to any plaintiff or potential class member, a thorough physical  
2 including blood tests to evaluate any health issues that may exist from the exposure to sewage, or  
3 injuries received as a result of the sewage spills.

4 e. Provide medical treatment to all Plaintiffs and class members who have medical issues and  
5 ill effects from exposure to biohazards.

6 f. Have only qualified, biohazard remediation crews clean-up and deal with biohazardous  
7 spills and waste materials in any San Francisco County Jail.

8 **And,**

9 **C. Award to Plaintiffs and class members**

10 a. compensatory and punitive damages to individual plaintiffs against defendants in amounts  
11 to be determined at trial;

12 b. costs and fees for this action, including attorneys' fees; and

13 c. grant such other and further relief as this Court deems appropriate.

14  
15 DATED: March 11, 2018

LAW OFFICE OF YOLANDA HUANG

16  
17 /s/ Yolanda Huang

Yolanda Huang

18 Counsel for Plaintiffs  
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