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RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA

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OCT 1 - 1997

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ROBIN LUCAS, VALERIE)
MERCADEL, and RAQUEL DOUTHIT,)
)
Plaintiffs,)
)
vs.)
)
O. IVAN WHITE, DR. PETER M.)
CARLSON, LOY HAYES, UNITED)
STATES OF AMERICA, KATHLEEN)
HAWK, CONSTANCE REESE,)
MARGARET L. HARDING, L.R.)
GREER, DENNIS SMITH, DENNIS)
GILLETTE, CHARLES GILLETTE,)
SHEILA YARBOROUGH, WAYNE)
ERNST, GARFIELD SAMUELS, and)
DOES 1 through 15, inclusive,)
)
Defendants.)

No. C 96-2905 TEH
AMENDED COMPLAINT FOR DAMAGES
AND INJUNCTIVE RELIEF

JURY TRIAL DEMANDED

[Civil Rights]

MED

1 Plaintiffs ROBIN LUCAS, VALERIE MERCADEL and RAQUEL DOUTHIT
2 hereby allege as follows:

3
4 INTRODUCTION

5 1. Plaintiffs ROBIN LUCAS, VALERIE MERCADEL and RAQUEL
6 DOUTHIT seek damages for injuries causes while incarcerated in
7 the custody of the Federal Bureau of Prisons at Camp Parks
8 minimum security facility ("Camp Parks"), the Federal Detention
9 Center -- Pleasanton ("FDC-Pleasanton") and the Federal
10 Correction Institution -- Dublin ("FCI-Dublin") in or around the
11 time period between August and November 1995. During that time
12 Plaintiffs ROBIN LUCAS, VALERIE MERCADEL and RAQUEL DOUTHIT were
13 sexually assaulted, physically and verbally sexually abused and
14 harassed, subjected to repeated invasions of privacy and
15 subjected to threats, retaliation and harassment when they
16 complained about this wrongful treatment.

17 2. In their acts and omissions as alleged herein,
18 Defendants have violated Plaintiffs' rights under the federal
19 Constitution and federal law to be from cruel and unusual
20 punishment and have deprived Plaintiffs of their privacy, due
21 process, equal protection and free speech rights. As a result of
22 Defendants' wrongful conduct, Plaintiffs have suffered, and
23 continue to suffer, severe physical and emotional injury, and
24 hereby seek damages in an amount to be determined, and injunctive
25 relief.

26
27
28

1 JURISDICTION

2 3. This lawsuit is brought under the United States
3 Constitution for damages pursuant to Bivens v. Six Unknown Agents
4 of the Federal Bureau of Narcotics, 403 U.S. 388 (1971), and for
5 injunctive relief. Jurisdiction is based on 28 U.S.C. §1331.
6 This lawsuit is also brought under, and this Court has
7 jurisdiction pursuant to, the Federal Tort Claims Act, 28 U.S.C.
8 §§1346(b), 2671 et seq. (This Court also has supplemental
9 jurisdiction over claims arising under state law, pursuant to 28
10 U.S.C. §1367.)

11
12 VENUE

13 4. The events or omissions giving rise to the claims
14 alleged in this Complaint arose in the Northern District of
15 California. Therefore, venue lies in the United States District
16 Court for the Northern District of California. 28 USC §§84(a);
17 1391(b)(2).

18
19 INTRA-DISTRICT ASSIGNMENT

20 5. All events giving rise to the causes of action
21 contained herein occurred in the County of Alameda and thus this
22 case should be assigned to the San Francisco Division or the
23 Oakland Division of the Northern District of California pursuant
24 to Rule 3-2(c) of the Local Rules of the Northern District.

25
26 PARTIES

27 6. Plaintiff ROBIN LUCAS is a citizen of the State of
28 California. At all times relevant herein, Plaintiff LUCAS was

1 incarcerated in the custody of the Federal Bureau of Prisons at
2 the FDC-Pleasanton facility and/or at the FCI-Dublin facility
3 and/or at Camp Parks facility. Plaintiff LUCAS was released from
4 prison in or around July 1996. Plaintiff LUCAS is an African-
5 American woman.

6 7. Plaintiff VALERIE MERCADEL currently is incarcerated in
7 the custody of the Federal Bureau of Prisons. At all times
8 relevant herein, Plaintiff MERCADEL was incarcerated in the
9 custody of the Federal Bureau of Prisons at the FDC-Pleasanton
10 facility and/or at the FCI-Dublin facility. Plaintiff MERCADEL
11 is currently incarcerated in the custody of the Federal Bureau of
12 Prison at the FCI-Danbury facility. Plaintiff MERCADEL is an
13 African-American woman.

14 8. Plaintiff RAQUEL DOUTHIT currently is incarcerated in
15 the custody of the Federal Bureau of Prisons. At all times
16 relevant herein, Plaintiff DOUTHIT was incarcerated in the
17 custody of the Federal Bureau of Prisons at the FDC-Pleasanton
18 facility and/or at the FCI-Dublin facility. Plaintiff DOUTHIT is
19 currently incarcerated in the custody of the Federal Bureau of
20 Prisons at FCI-Tallahassee. Plaintiff DOUTHIT is an African-
21 American woman.

22 9. Defendant KATHLEEN M. HAWK, upon information and
23 belief, is, and was at all times relevant herein, the Director of
24 the Bureau of Prisons, acting under color of federal law. As
25 such, she was and is responsible for the security and safety of
26 all persons incarcerated in the custody of the Bureau of Prisons,
27 including all female inmates. Defendant HAWK also was and is
28 responsible for the supervision, training and administration of

1 all staff employed by, or who work as independent contractors
2 with, the Bureau of Prisons. As to all claims presented herein
3 against her, Defendant HAWK is being sued in her official
4 capacity and only injunctive relief is sought.

5 10. Defendant O. IVAN WHITE was the Western Regional
6 Director for the Federal Bureau of Prisons, acting under color of
7 federal law. As such, he was responsible for the security and
8 safety of persons incarcerated within the Western Region,
9 including Plaintiffs, and the supervision, training and
10 administration of the correctional staff in the Western Region.
11 As to all claims presented herein against him, Defendant WHITE is
12 being sued in his individual capacity.

13 11. Defendant DR. PETER M. CARLSON, upon information and
14 belief, is the current Western Regional Director for the Federal
15 Bureau of Prisons, acting under color of federal law. As such,
16 he is responsible for the security and safety of persons
17 incarcerated within the Western Region, and the supervision,
18 training and administration of the correctional staff in the
19 Western Region. As to all claims presented herein against him,
20 Defendant WHITE is being sued in his official capacity and only
21 injunctive relief is sought.

22 12. Defendant LOY HAYES was the Warden at the FCI-Dublin,
23 FDC-Pleasanton and Camp Parks facilities, acting under color of
24 federal law. As such, he was responsible for the security and
25 safety of persons incarcerated within these facilities, including
26 Plaintiffs, and the supervision, training, administration and
27 placement of the correctional staff at these facilities. He also
28 was directly responsible for making decisions as to which

1 facility would house particular inmates, including Plaintiffs,
2 and knew or should have known that Plaintiffs were housed at the
3 J-2 SHU. As to all claims presented herein against him,
4 Defendant HAYES is being sued in his individual capacity.

5 13. Defendant CONSTANCE REESE, upon information and belief,
6 is the current Warden at the FCI-Dublin, FDC-Pleasanton and Camp
7 Parks facilities, acting under color of federal law. As such,
8 she is responsible for the security and safety of persons
9 incarcerated within these facilities, and the supervision,
10 training, administration and placement of the correctional staff
11 at these facilities. She is also directly responsible for making
12 decisions as to which facility, including the J-2 SHU, will house
13 particular inmates. As to all claims presented herein against
14 her, Defendant REESE is being sued in her official capacity and
15 only injunctive relief is sought.

16 14. Defendant MARGARET L. HARDING, upon information and
17 belief, is the current Warden at the FCI-Danbury facility, acting
18 under color of federal law. As such, she is responsible for the
19 security and safety of persons incarcerated within this facility,
20 and the supervision, training, administration and placement of
21 the correctional staff at this facility. As to all claims
22 presented herein against her, Defendant HARDING is being sued in
23 her official capacity and only injunctive relief is sought.

24 15. Defendant L.R. GREER, upon information and belief, is
25 the current Warden at the FCI Tallahassee facility, acting under
26 color of federal law. As such, he is responsible for the
27 security and safety of persons incarcerated within this facility,
28 and the supervision, training, administration and placement of

1 the correctional staff at this facility. He is also directly
2 responsible for making decisions as to which units of the
3 facility will house particular inmates. As to all claims
4 presented herein against him, Defendant GREER is being sued in
5 his official capacity and only injunctive relief is sought.

6 16. Defendant DENNIS SMITH was at all times relevant herein
7 a Captain and high-ranking correctional officer at the FDC-
8 Pleasanton, FCI-Dublin and Camp Parks facilities, acting under
9 color of federal law. As such, he was responsible for the
10 security and safety of persons incarcerated within these
11 facilities, including Plaintiffs, and the supervision, training
12 and administration of the correctional staff in these facilities.
13 He is being sued in his individual capacity.

14 17. Defendant DENNIS GILLETTE was at all times relevant
15 herein a correctional officer at the J-2 SHU at the FDC-
16 Pleasanton facility, acting under color of federal law. As such,
17 he was responsible for the security and safety of persons
18 incarcerated within FDC-Pleasanton, including Plaintiffs. He is
19 being sued in his individual capacity.

20 18. Defendant CHARLES GILLETTE is, and was at all times
21 relevant herein, a Lieutenant and Special Investigative Section
22 ("SIS") Officer at the FDC-Pleasanton, FCI-Dublin facilities,
23 acting under color of federal law. As such, he was responsible
24 for the investigation and prosecution of inappropriate or
25 unlawful behavior of correctional officers within these
26 facilities, and for the security and safety of persons
27 incarcerated within these facilities, including Plaintiffs. He
28 is being sued in his individual capacity.

1 20. Defendant SHEILA YARBOROUGH is, and was at all times
2 relevant herein, a Lieutenant and SIS officer at the FDC-
3 Pleasanton, FCI-Dublin and Camp Parks facilities, acting under
4 color of federal law. As such, she was responsible for the
5 investigation and prosecution of inappropriate or unlawful
6 behavior of correctional officers within these facilities, and
7 for the security and safety of persons incarcerated within these
8 facilities, including Plaintiffs. She is being sued in her
9 individual capacity.

10 20. Defendant WAYNE L. ERNST is, and was at all times
11 relevant herein, a Lieutenant at the FCI-Dublin, FDC-Pleasanton
12 and Camp Parks facilities, acting under color of federal law. As
13 such, he was responsible for the security and safety of persons
14 incarcerated within these facilities, including Plaintiffs, and
15 the supervision, training and administration of the correctional
16 staff in these facilities. He is being sued in his individual
17 capacity.

18 21. Defendant GARFIELD SAMUELS was at all times relevant
19 herein, a corrections officer at the J2-SHU at the FDC-Pleasanton
20 facility, acting under color of federal law. As such, he was
21 responsible for the security and safety of persons incarcerated
22 within FDC-Pleasanton, including Plaintiffs. He is being sued in
23 his individual capacity.

24 22. Plaintiff is ignorant of the true names and capacities
25 of Defendants sued herein as Does 1 through 15, inclusive, and
26 therefore sues said Defendants by such fictitious names.
27 Plaintiff is informed and believes, and therefore alleges, that
28 each of Does 1 through 15 is responsible in some manner for the

1 injuries and damages alleged herein. Plaintiff therefore sues
2 Does 1 through 15, inclusive, by such fictitious names and will
3 seek leave to amend this Complaint to add their true names and
4 capacities when they have been ascertained.

5 23. Defendant UNITED STATES OF AMERICA is sued directly
6 under the Federal Tort Claims Act.

7 24. Plaintiffs are informed and believe, and on that basis
8 allege, that at all times relevant herein, Defendants, and each
9 of them, were employees and agents of the government of the
10 United States of America.

11 25. Plaintiffs allege that at all times relevant to this
12 action, Defendants, and each of them, acted in the course and
13 scope of their employment and under color of federal law.

14 26. While acting and failing to act as alleged herein,
15 Defendants, and each of them, had complete custody and total
16 control of Plaintiffs. Plaintiffs were dependent upon
17 Defendants, and each of them, for their personal security.

18 27. In performing the acts and/or omissions complained of
19 herein, Defendants, and each of them, acted under color of
20 federal law, and Plaintiffs are informed and believe each acted
21 maliciously, callously, intentionally, recklessly, with gross
22 negligence, and with deliberate indifference to the rights and
23 personal security of Plaintiffs. Each of them knew or should
24 have known that their conduct, attitudes, actions and/or
25 omissions were, and are, a threat to Plaintiffs and to their
26 Constitutionally-protected rights. Despite this knowledge,
27 Defendants, and each of them, failed to take steps to protect
28 Plaintiffs, and to ensure their Constitutional rights while they

1 were in Defendants' care and custody.

2
3 FACTS

4 28. Plaintiffs ROBIN LUCAS, VALERIE MERCADEL and RAQUEL
5 DOUTHIT are, or were, female inmates incarcerated in the custody
6 of the Federal Bureau of Prisons and housed at the FDC-Pleasanton
7 facility and the FCI-Dublin facility, who were subjected to a
8 pattern and practice of sexual assaults, intimidation, physical,
9 sexual and verbal abuse, threats of violence, sexual harassment,
10 invasions of privacy, and other violations of law by Defendants,
11 and were retaliated against by Defendants for their complaints
12 regarding this unlawful conduct, as set forth herein.

13
14 ROBIN LUCAS

15 29. On or about April 2, 1995, Plaintiff ROBIN LUCAS was
16 incarcerated at Camp Parks, in Dublin, California, a minimum
17 security facility for women.

18 30. On or about August 14, 1995, after an alleged
19 altercation with another prisoner, Plaintiff LUCAS was moved to
20 the J-2 SHU (Special Housing Unit) at FDC-Pleasanton.

21 31. Plaintiff LUCAS is informed and believes that FDC-
22 Pleasanton is a detention facility regularly used for the housing
23 of men only. The J-2 SHU is a 24-hour lockdown facility, in
24 which inmates are locked in their single cells at all times
25 (except for very limited activities, such as showers). At the
26 time Plaintiff LUCAS was placed in the J-2 SHU, she was one of
27 only a handful of women housed there among an otherwise all-male
28 prisoner population.

1 32. Plaintiff LUCAS is informed and believes and therefore
2 alleges that Defendant Warden HAYES directly approved her
3 placement at the J-2 SHU and/or immediately ratified her transfer
4 to the J-2 SHU, and was responsible for deciding whether she
5 would be moved from that unit. Plaintiff is further informed and
6 believes that Defendant WHITE approved the policy of housing
7 female inmates in the men's SHU unit, and approved Plaintiff
8 LUCAS' placement at the J-2 SHU.

9 33. Plaintiff LUCAS' placement at FDC-Pleasanton, and her
10 placement in the J-2 SHU in particular, exposed all aspects of
11 her private life, including changing of clothes, showering and
12 use of the cell toilet, to the supervision and observation of
13 male custody staff, as well as exposing her to a male inmate
14 environment pervaded by sexual attention and animus directed at
15 the few women in the facility. Few, if any, female officers were
16 assigned to the J-2 SHU during the time Plaintiff was placed
17 there. Moreover, because the facilities were designed for
18 single-sex use, the cell windows and showers were in plain view
19 of the male guards and inmates.

20 34. As a result of her placement on an all male tier, under
21 constant supervision of male prison staff and constant exposure
22 to the male inmate environment, Plaintiff LUCAS suffered severe
23 emotional and psychological distress and invasions of her
24 privacy.

25 35. Shortly after Plaintiff LUCAS' arrival at the J-2 SHU,
26 she became the victim of a pattern of serious sexual harassment
27 and unwelcome sexual advances orchestrated and facilitated by
28 prison officials including, but not limited to the following:

1 (a) Male prisoners were allowed by guards to roam the
2 J-2 SHU corridor and harass women prisoners, including Plaintiff
3 LUCAS, through the food port or other opening in the cell doors.
4 On several occasions, male prisoners propositioned Plaintiff
5 LUCAS with offers of alcohol, drugs, condoms and other contraband
6 in return for sexual favors.

7 (b) Male prisoners repeatedly taunted and threatened
8 to assault Plaintiff LUCAS.

9 (c) Male prisoners were provided access to Plaintiff
10 LUCAS' cell without her consent by one or more correctional
11 officers, who would open the locked cell door to admit them.
12 Plaintiff LUCAS is informed and believes some of the prisoners
13 who were admitted to her cell were from other parts of the
14 detention center.

15 (d) One male prisoner entered Plaintiff LUCAS' cell
16 and climbed into bed with her while she was asleep and without
17 her consent, for the purpose of having sexual contact with her.

18 36. Plaintiff LUCAS is informed and believes, and therefore
19 alleges, that Defendant SAMUELS (otherwise known as "Dude"), an
20 officer regularly on duty at the J-2 SHU between midnight and
21 8:00 a.m., unlocked Plaintiff LUCAS' cell door to permit male
22 prisoners to enter her cell at night without her consent, for the
23 purposes of perpetrating such assaults, abuse and harassment.

24 37. Plaintiff LUCAS is informed and believes, and on that
25 basis alleges, that other correctional officers, whose identities
26 are unknown to Plaintiff LUCAS, and who are sued herein as DOE
27 Defendants 4 through 15, also allowed male inmates to access
28 Plaintiff LUCAS' cell at the J-2 SHU for purposes of perpetrating

1 such assaults, abuse and harassment, or otherwise participated in
2 the assaults, abuse and harassment.

3 38. During this time period, Plaintiff LUCAS repeatedly
4 asked prison personnel, including Defendant SAMUELS to stop
5 letting male prisoners into her cell and asked other correctional
6 staff at the J-2 SHU to intervene to stop this harassment, to no
7 avail.

8 39. Throughout the time she was housed in the J-2 SHU, and
9 as a result of the unwelcome encounters with male prisoners and
10 correctional staff as herein alleged, Plaintiff LUCAS was
11 severely emotionally and psychologically distraught and in
12 constant fear of further attacks. This fear and emotional and
13 psychological distress was exacerbated by the fact that she could
14 not seek assistance from the correctional staff, as they were
15 involved in the wrongdoing.

16 40. In or around August 1995, after her requests for help
17 to the J-2 SHU staff went unanswered, and fearing for her
18 physical safety there, Plaintiff LUCAS contacted Defendant
19 CAPTAIN SMITH, and asked to be transferred to a SHU in a female
20 facility. Plaintiff LUCAS spoke with Defendant CAPTAIN SMITH
21 several times in late August 1995, and informed him about what
22 was taking place at the J-2 SHU, including the fact that
23 correctional officers were unlocking her cell door to allow
24 inmates to enter at night, and about Defendant Officer SAMUELS'
25 involvement. Despite the fact that Plaintiff LUCAS provided this
26 information, Defendant SMITH refused to remove her from the J-2
27 SHU. During one of her conversations with Defendant SMITH,
28 Plaintiff LUCAS identified some of the inmates who had been let

1 into her cell from a photographic line-up shown to her by
2 Defendant CAPTAIN SMITH. After this identification, Defendant
3 CAPTAIN SMITH requested that Plaintiff LUCAS provide an affidavit
4 to the authorities.

5 41. On or about September 5, 1995, pursuant to Defendant
6 SMITH'S request, Plaintiff LUCAS gave a verbal statement and a
7 written affidavit to SIS Investigators, Defendants LIEUTENANTS
8 YARBOROUGH and GILLETTE, including a detailed written statement
9 regarding her treatment at the J-2 SHU. Plaintiff LUCAS is
10 informed and believes that the SIS is the Internal Affairs Bureau
11 for all three facilities -- FDC-Pleasanton, FCI-Dublin and Camp
12 Parks. Plaintiff is informed and believes that Defendants
13 LIEUTENANTS YARBOROUGH and GILLETTE communicated the substance of
14 her detailed statement to Defendant CAPTAIN SMITH. Despite her
15 provision of this detailed statement, Defendant CAPTAIN SMITH
16 again refused to move Plaintiff from the J-2 SHU.

17 42. Plaintiff LUCAS is informed and believes, and therefore
18 alleges, that Defendants LIEUTENANTS YARBOROUGH and GILLETTE and
19 CAPTAIN SMITH leaked, or caused the release of, the substance of
20 her detailed statement to personnel and inmates at FCI-Dublin
21 and/or FDC-Pleasanton, knowing that the release of that
22 information to FCI-Dublin and/or FDC-Pleasanton personnel and
23 inmates would brand Plaintiff as a "snitch" and place her safety
24 and security at risk.

25 43. Within days after making her detailed statement, the
26 substance of Plaintiff LUCAS' detailed statement and the fact
27 that Plaintiff LUCAS had "snitched" were common knowledge among
28 the male prisoners and correctional personnel in the J-2 SHU.

1 During this time, Plaintiff LUCAS remained housed in the J-2 SHU
2 despite obvious and severe risk to her personal security, her
3 receipt of threats, and her repeated requests for transfer and
4 protection.

5 44. On or about September 22, between midnight and 5:00
6 a.m., while she was asleep, Plaintiff LUCAS' cell door was
7 opened. Three men, whose identities are unknown to Plaintiff and
8 who are sued here as DOES 1 through 3, entered her cell and
9 forcibly restrained her and handcuffed her from behind.

10 Plaintiff LUCAS was brutally beaten, her life was repeatedly
11 threatened, and she was savagely raped and sodomized. During
12 this attack, Defendants DOES 1 through 3 informed Plaintiff LUCAS
13 that the attack was in retaliation for her providing a statement
14 to the SIS investigators, including, but not limited to, calling
15 her a "snitch" and advising her to "keep her mouth shut".

16 Plaintiff is informed and believes and therefore alleges that one
17 or more of Defendant Does 1 through 3 are, or were, correctional
18 personnel.

19 45. This violent attack resulted in serious physical injury
20 to Plaintiff LUCAS, including injuries to her neck, back, ribs,
21 shoulder, arms, wrists, anus and private areas, as well as severe
22 emotional and psychological trauma.

23 46. Following the attack, Plaintiff LUCAS requested medical
24 attention from the prison staff. Despite her requests for such
25 attention, Plaintiff LUCAS was denied any medical attention until
26 several weeks after the attack.

27 47. During the time period following the attack, male
28 inmates continued to threaten to physically harm Plaintiff LUCAS,

1 including making statements to the effect that she would be found
2 hanging dead in her cell.

3 48. On or about, October 5, 1995, Plaintiff LUCAS was
4 transferred to the women's SHU facility at FCI-Dublin.

5 49. In or around late October or early November 1995,
6 Plaintiff LUCAS gave another statement to Defendant LIEUTENANT
7 ERNST, this time concerning the September 22nd attack.

8 50. Subsequent to her second statement to the authorities,
9 Defendant CAPTAIN SMITH attempted to intimidate Plaintiff LUCAS
10 into withdrawing her complaints, including by making statements
11 advising her to "drop the issue."

12 51. Plaintiff LUCAS has suffered, and continues to suffer,
13 in addition to physical injury, severe psychological and
14 emotional trauma, including extraordinary fear, anxiety, and
15 depression as a consequence of the harassment, abuse,
16 discrimination and retaliation Plaintiff LUCAS encountered at the
17 hands of male staff and prisoners at FDC-Pleasanton and FCI-
18 Dublin.

19 52. These actions and inactions by prison officials and
20 inmates, along with the complete failure of prison officials to
21 take any action to protect Plaintiff LUCAS, or to provide her
22 with requested and much needed medical attention, as herein
23 alleged, not only allowed her physical injuries to worsen, but
24 also intensified her severe emotional and psychological trauma.

25 53. Plaintiff LUCAS is informed and believes and therefore
26 alleges that, in or around the period of her incarceration at the
27 J-2 SHU, other women prisoners were also sexually harassed and
28 assaulted after correctional officers, including Defendant

1 SAMUELS, unlocked their cell doors to admit male inmates. Among
2 the other women prisoners who were subject to this harassment
3 were two other African-American women (Plaintiffs Valerie
4 MERCADEL and Raquel DOUTHIT), and three White women.

5 54. Plaintiff is informed and believes that other women
6 housed at the J-2 SHU also complained to prison officials about
7 sexual harassment and assault, including rape. Plaintiff is
8 further informed and believes that a complaint by one of the
9 White women resulted in the removal of the White women from the
10 J-2 SHU on or about September 25, 1995. (The three African-
11 American women, including Plaintiff LUCAS, were not removed until
12 on or about October 5, 1995.)

13 55. On or about November 17, 1995, after the intervention
14 of her attorneys, Plaintiff LUCAS was transferred to the Alameda
15 County Jail, Santa Rita.

16 56. Plaintiff LUCAS, on her own, and by and through her
17 attorneys, has submitted all grievances alleged herein, to
18 personnel at the Federal Bureau of Prisons, and has cooperated
19 fully in any and all formal internal investigations of the events
20 complained of herein, thereby fully exhausting all applicable
21 internal grievance mechanisms.

22
23 VALERIE MERCADEL

24 57. On or about June 8, 1995, Plaintiff VALERIE MERCADEL
25 was housed at FCI-Dublin, a federal correctional facility for
26 women.

27 58. On or about September 20, 1995, after an altercation
28 with another prisoner, Defendant Captain SMITH and other

1 correctional personnel moved Plaintiff MERCADEL and Plaintiff
2 Raquel DOUTHIT, another female prisoner, to the J-2 SHU (Special
3 Housing Unit) at FDC-Pleasanton.

4 59. Plaintiff MERCADEL is informed and believes that FDC-
5 Pleasanton is a detention facility regularly used for the housing
6 of men only. The J-2 SHU is a 24-hour lockdown facility, in
7 which inmates are locked in their single cells at all times
8 (except for very limited activities, such as showers). At the
9 time Plaintiff MERCADEL was placed in the J-2 SHU, she was one of
10 only a handful of women housed there among an otherwise all-male
11 prisoner population.

12 60. Plaintiff MERCADEL is informed and believes and
13 therefore alleges that Defendant Warden HAYES directly approved
14 her placement at the J-2 SHU and/or immediately ratified her
15 transfer to the J-2 SHU, and was responsible for deciding whether
16 she would be moved from that unit. Plaintiff is further informed
17 and believes that Defendant WHITE approved the policy of housing
18 female inmates in the men's SHU unit, and approved Plaintiff
19 MERCADEL's placement at the J-2 SHU.

20 61. Plaintiff MERCADEL's placement at FDC-Pleasanton, and
21 her placement in the J-2 SHU in particular, exposed all aspects
22 of her private life, including changing of clothes, showering and
23 use of the cell toilet, to the supervision and observation of
24 male custody staff. She was further exposed to a male inmate
25 environment pervaded by sexual attention and animus directed at
26 the few women in the facility. Few, if any, female officers were
27 assigned to the J-2 SHU during the time Plaintiff was placed
28 there. In addition, because the facilities were designed for

1 single-sex use, the cell windows and showers were in plain view
2 of the male guards and inmates. Moreover, as Plaintiff was
3 supplied only one set of clothing upon transfer to the J-2 SHU,
4 she was forced to sleep in her undergarments.

5 62. As a result of her placement on an all male tier, under
6 the constant supervision of male prison staff and constant
7 exposure to the male inmate environment, Plaintiff MERCADEL
8 suffered severe emotional and psychological distress and
9 invasions of her privacy.

10 63. Shortly after Plaintiff MERCADEL's arrival at the J-2
11 SHU, she became the victim of a pattern of serious sexual
12 harassment and unwelcome sexual advances orchestrated and
13 facilitated by prison officials including, but not limited to the
14 following:

15 (a) Male prisoners were allowed by guards to roam the
16 J-2 SHU corridor and harass women prisoners, including Plaintiff
17 MERCADEL, through the food port or other opening in the cell
18 doors.

19 (b) On at least one occasion, a male inmate grabbed
20 Plaintiff MERCADEL through her cell door and made statements to
21 the effect that he had paid for her services and would "collect"
22 whether she consented or not.. He then proceeded to physically
23 assault her by striking a strong blow to her head.

24 (c) Male prisoners repeatedly propositioned Plaintiff
25 MERCADEL for sex, both in writing and while standing outside her
26 cell.

27 (d) Male prisoners were provided access to Plaintiff
28 MERCADEL's cell without her consent by one or more correctional

1 officers, who would open the locked door to admit them. On these
2 occasions, Plaintiff was locked in her cell with the male inmates
3 until such time as the correctional officer(s) returned to unlock
4 the cell. Plaintiff MERCADEL is informed and believes some of the
5 prisoners who were admitted to her cell were from other parts of
6 the detention center.

7 (e) At least one male inmate who was provided access to
8 Plaintiff MERCADEL's cell without her consent forcibly molested
9 and abused her, fondling her breasts and attempting to orally
10 copulate her.

11 64. Plaintiff MERCADEL is informed and believes, and
12 therefore alleges, that Defendant SAMUELS (otherwise known as
13 "Dude"), an officer regularly on duty at the J-2 SHU between
14 midnight and 8:00 a.m., unlocked Plaintiff MERCADEL's cell door
15 to permit male prisoners to enter her cell at night without her
16 consent, for the purposes of perpetrating such assaults, abuse
17 and harassment.

18 65. Plaintiff MERCADEL is informed and believes, and on
19 that basis alleges, that other correctional officers, whose
20 identities are unknown to Plaintiff MERCADEL, and who are sued
21 herein as DOE Defendants 4 through 15, also allowed male inmates
22 to access Plaintiff MERCADEL's cell at the J-2 SHU for purposes
23 of perpetrating such assaults, abuse and harassment, or otherwise
24 participated in the assaults, abuse and harassment.

25 66. During this time period, Plaintiff MERCADEL asked
26 prison personnel, including Defendant SAMUELS to stop letting
27 male prisoners into her cell. Defendant SAMUELS acknowledged his
28 participation in the unwelcome sexual advances.

1 67. During the time Plaintiff MERCADEL was housed at the J-
2 2 SHU, Defendant Officer GILLETTE sexually harassed and assaulted
3 Plaintiff MERCADEL, including, without limitation, by making
4 sexual remarks and comments to her, by demanding that Plaintiff
5 MERCADEL show him her breasts or genitals in order to receive a
6 prison issued t-shirt, and by attempting to grab Plaintiff
7 MERCADEL's buttocks while she was on her way to the shower.
8 Plaintiff MERCADEL refused to comply with Defendant Officer
9 GILLETTE's demands to show her breasts and/or genitals and did
10 not receive a t-shirt from him.

11 68. Throughout the time she was housed in the J-2 SHU, and
12 as a result of the unwelcome encounters with male prisoners and
13 correctional staff as herein alleged, Plaintiff MERCADEL was
14 severely emotionally and psychologically distraught and in
15 constant fear of further attacks. This fear and emotional and
16 psychological distress was exacerbated by the fact that she could
17 not seek assistance from the correctional staff, as they were
18 involved in the wrongdoing. Moreover, as a result of her
19 constant fear of further attacks, and in an effort to protect
20 herself from these attacks, Plaintiff MERCADEL moved her mattress
21 to block the cell door and attempted to stay awake during the
22 night.

23 69. On or about October 5, 1995, correctional staff moved
24 Plaintiff MERCADEL and two other African-American female
25 prisoners, Plaintiffs Robin LUCAS and Raquel DOUTHIT, to the SHU
26 at the nearby FCI-Dublin.

27 70. Plaintiffs MERCADEL and Raquel DOUTHIT were placed in a
28 cell together at FCI-Dublin.

1 71. On or about October 11, 1995, Plaintiff MERCADEL
2 appeared before E. Porter, a Disciplinary Hearing Officer, for a
3 disciplinary hearing pertaining to her initial SHU placement.
4 Plaintiff MERCADEL complained to Officer Porter about the
5 problems she had encountered. Officer Porter refused to listen
6 to her complaints, cautioned her that her allegations were
7 "dangerous," and informed her that she had to write to his
8 superior, Defendant O. Ivan WHITE, the Western Regional Director
9 of the Bureau of Prisons, in order to initiate a complaint.

10 72. On or about October 15, 1995, Plaintiff MERCADEL wrote
11 a letter to Defendant WHITE, which she and Plaintiff DOUTHIT both
12 signed. In the letter they informed Defendant WHITE that their
13 personal safety and security had been violated by correctional
14 officers at the J-2 SHU at FDC-Pleasanton, and requested that an
15 official from outside FCI-Dublin be sent to investigate these
16 problems. Defendant WHITE failed to respond appropriately to
17 this letter; instead, he sent a copy of the letter to officials
18 at FDC-Pleasanton and/or FCI-Dublin, some of whom were the
19 officials accused of misconduct. Plaintiff MERCADEL is informed
20 and believes that Defendant Lieutenant ERNST at FCI-Dublin was
21 assigned to investigate their complaints.

22 73. On or about October 16, 1995, Defendant Lieutenant
23 ERNST spoke with Plaintiffs MERCADEL and DOUTHIT separately about
24 the problems they had encountered at FDC-Pleasanton, promising to
25 treat their interviews as confidential.

26 74. Plaintiff MERCADEL is informed and believes, and
27 therefore alleges, that Defendant LIEUTENANT ERNST and/or
28 Defendant WHITE leaked, or caused the release of, the substance

1 of her complaints to personnel and inmates at FCI-Dublin and/or
2 FDC-Pleasanton, knowing that such release would brand Plaintiff
3 MERCADEL as a "snitch" and place her safety and security at risk.

4 75. Within days after making these complaints, the
5 substance of Plaintiff MERCADEL'S complaint and the fact that
6 Plaintiff MERCADEL had "snitched" were common knowledge among the
7 correctional staff. During this time, Plaintiff MERCADEL
8 remained housed at FCI-Dublin.

9 76. Following the meeting with Defendant Lieutenant ERNST,
10 Plaintiff MERCADEL was threatened and harassed by the
11 correctional staff at FCI-Dublin, including without limitation
12 the following:

13 (a) On or about October 19, 1995, Defendant Captain
14 SMITH approached Plaintiffs MERCADEL and DOUTHIT at their cell,
15 and threatened to close the investigation regarding their
16 complaints of treatment at the J-2 SHU in order to intimidate
17 them.

18 (b) Subsequent to his threats to close the
19 investigation altogether, Defendant CAPTAIN SMITH threatened
20 Plaintiff MERCADEL'S physical safety and security, including, but
21 not limited to, threats to tell the other prisoners that
22 Plaintiff MERCADEL was a "snitch", which Defendant SMITH knew
23 would endanger Plaintiff MERCADEL'S physical safety and security.

24 (c) Defendant Officer GILLETTE also came to Plaintiffs
25 MERCADEL and DOUTHIT'S cell at FCI-Dublin and attempted to
26 intimidate them into dropping their complaint.

27 77. Plaintiff MERCADEL is informed and believes that the
28 conduct as alleged herein was part of an effort by Defendants

1 WHITE, ERNST, SMITH and Officer GILLETTE to retaliate against her
2 for her complaints about her treatment in the J-2 SHU, and at
3 FCI-Dublin, and to intimidate her into withdrawing said
4 complaints, or to suppress evidence, obstruct justice, and/or
5 intimidate witnesses with regard to said complaints.

6 78. On or about November 1, 1995, Plaintiff MERCADEL filled
7 out a request to speak with Defendant Warden HAYES concerning
8 what had happened to her, and wrote a second letter to Defendant
9 WHITE informing him of the continuing threat to her safety and
10 requesting investigation by someone from outside FCI-Dublin.
11 Plaintiff MERCADEL was not moved or provided protection pursuant
12 to these requests.

13 79. Plaintiff MERCADEL has suffered, and continues to
14 suffer, in addition to physical injury, severe psychological and
15 emotional trauma, including extraordinary fear, anxiety, and
16 depression as a consequence of the harassment, abuse,
17 discrimination and retaliation Plaintiff MERCADEL encountered at
18 the hands of male staff and prisoners at FDC-Pleasanton and FCI-
19 Dublin.

20 80. These actions and inactions by prison officials and
21 inmates, along with the complete failure of prison officials to
22 take any action to protect Plaintiff MERCADEL intensified her
23 severe emotional and psychological trauma.

24 81. Plaintiff MERCADEL is informed and believes and
25 therefore alleges that, in or around the period of her
26 incarceration at the J-2 SHU, other women prisoners were also
27 sexually harassed and assaulted after correctional officers,
28 including Defendant SAMUELS, unlocked their cell doors to admit

1 male inmates. Among the other women prisoners who were subject
2 to this harassment were two other African-American women
3 (Plaintiffs Robin LUCAS and Raquel DOUTHIT), and three White
4 women.

5 82. Plaintiff MERCADEL is informed and believes that other
6 women housed at the J-2 SHU also complained to prison officials
7 about sexual harassment and assault, including rape. Plaintiff
8 MERCADEL is further informed and believes that a complaint by one
9 of the White women resulted in the removal of the White women
10 from the J-2 SHU on or about September 25, 1995. (The three
11 African-American women, including Plaintiff MERCADEL, were not
12 removed until on or about October 5, 1995.)

13 83. On or about November 16, 1995, after the intervention
14 of her attorneys, Plaintiff MERCADEL was transferred to the
15 Alameda County Jail, Santa Rita.

16 84. Plaintiff since was moved to the Alameda County Jail,
17 North County. She currently is housed at the Federal
18 Correctional Institute in Danbury, Connecticut.

19 85. Plaintiff MERCADEL, on her own, and by and through her
20 attorneys, has submitted all grievances alleged herein, to
21 personnel at the Federal Bureau of Prisons, and has cooperated
22 fully in any and all formal internal investigations of the events
23 complained of herein, thereby fully exhausting all applicable
24 internal grievance mechanisms.

25
26 RAQUEL DOUTHIT

27 86. On or about June 2, 1995, Plaintiff RAQUEL DOUTHIT was
28 housed at FCI-Dublin, a federal correctional facility for women.

1 87. On or about September 20, 1995, after an altercation
2 with another prisoner, Defendant Captain SMITH and other
3 correctional personnel moved Plaintiff DOUTHIT and Plaintiff
4 Valerie MERCADEL, another female prisoner, to the J-2 SHU
5 (Special Housing Unit) at FDC-Pleasanton.

6 88. Plaintiff DOUTHIT is informed and believes that FDC-
7 Pleasanton is a detention facility regularly used for the housing
8 of men only. The J-2 SHU is a 24-hour lockdown facility, in
9 which inmates are locked in their single cells at all times
10 (except for showers). At the time Plaintiff DOUTHIT was placed
11 in the J-2 SHU, she was one of only a handful of women housed
12 there among an otherwise all-male prisoner population.

13 89. Plaintiff DOUTHIT is informed and believes and
14 therefore alleges that Defendant Warden HAYES directly approved
15 her placement at the J-2 SHU and/or immediately ratified her
16 transfer to the J-2 SHU, and was responsible for deciding whether
17 she would be moved from that unit. Plaintiff is further informed
18 and believes that Defendant WHITE approved the policy of housing
19 female inmates in the men's SHU unit, and approved Plaintiff
20 DOUTHIT's placement at the J-2 SHU.

21 90. Plaintiff DOUTHIT's placement at FDC-Pleasanton, and
22 her placement in the J-2 SHU in particular, exposed all aspects
23 of her private life, including changing of clothes, showering and
24 use of the cell toilet, to the supervision and observation of
25 male custody staff. She was further exposed to a male inmate
26 environment pervaded by sexual attention and animus directed at
27 the few women in the facility. Few, if any, female officers were
28 assigned to the J-2 SHU during the time Plaintiff was placed

1 there. In addition, because the facilities were designed for
2 single-sex use, the cell windows and showers were in plain view
3 of the male guards and inmates. Moreover, as Plaintiff DOUTHIT
4 was supplied only one set of clothing upon transfer to the J-2
5 SHU, she was forced to sleep in her undergarments.

6 91. As a result of her placement on an all male tier, under
7 constant supervision of male prison staff and constant exposure
8 to the male inmate environment, Plaintiff DOUTHIT suffered severe
9 emotional and psychological distress and invasions of her
10 privacy.

11 92. Shortly after Plaintiff DOUTHIT's arrival at the J-2
12 SHU, she became the victim of a pattern of serious sexual
13 harassment and unwelcome sexual advances orchestrated and
14 facilitated by prison officials including, but not limited to the
15 following:

16 (a) Male prisoners were allowed by guards to roam the
17 J-2 SHU corridor and harass women prisoners, including Plaintiff
18 DOUTHIT, through the food port or other opening in the cell
19 doors. On several occasions, male prisoners propositioned
20 Plaintiff MERCADEL with offers of alcohol, and other contraband
21 in return for sexual favors.

22 (b) Male prisoners repeatedly propositioned Plaintiff
23 DOUTHIT for sex, both in highly offensive letters and while
24 standing outside her cell.

25 (c) Male prisoners were provided access to Plaintiff
26 DOUTHIT's cell without her consent by one or more correctional
27 officers, who would open the locked cell door to admit them. On
28 these occasions, Plaintiff DOUTHIT was locked in her cell with

1 the male inmates until such time as the correctional officer(s)
2 returned to unlock the cell. Plaintiff DOUTHIT is informed and
3 believes some of the prisoners who were admitted to her cell were
4 from other parts of the detention center.

5 (d) On several occasions, male prisoners entered
6 Plaintiff DOUTHIT's cell without her consent, where they sexually
7 harassed and sexually and verbally abused her.

8 (e) On one occasion, a male inmate who was given access
9 to her cell without her consent, held Plaintiff DOUTHIT down
10 while he forcibly molested, orally copulated, and abused
11 Plaintiff DOUTHIT. On a separate occasion, this male inmate
12 entered Plaintiff DOUTHIT's cell and, when Plaintiff DOUTHIT
13 refused to have sex with him, he sat directly in front of her and
14 masturbated.

15 93. Plaintiff DOUTHIT is informed and believes, and
16 therefore alleges, that Defendant SAMUELS (otherwise known as
17 "Dude"), a officer regularly on duty at the J-2 SHU between
18 midnight and 8:00 a.m., unlocked Plaintiff DOUTHIT'S cell door to
19 permit male prisoners to enter her cell at night without her
20 consent, for the purposes of perpetrating such assaults, abuse
21 and harassment.

22 94. Plaintiff DOUTHIT is informed and believes, and on that
23 basis alleges, that other correctional officers, whose identities
24 are unknown to Plaintiff DOUTHIT, and who are sued herein as DOE
25 Defendants 4 through 15, also allowed male inmates to access
26 Plaintiff DOUTHIT'S cell at the J-2 SHU for purposes of
27 perpetrating such assaults, abuse and harassment, or otherwise
28 participated in the assaults, abuse and harassment.

1 95. Throughout her stay on the J-2 SHU, Plaintiff
2 continually feared for her personal safety, and suffered extreme
3 emotional and psychological distress. This fear and emotional
4 and psychological distress was exacerbated by the fact that she
5 could not seek assistance from the correctional staff as they
6 were involved with the wrongdoing.

7 96. On or about October 5, 1995, correctional staff moved
8 Plaintiff DOUTHIT and two other African-American female
9 prisoners, Plaintiffs Robin LUCAS and Valerie MERCADEL, to the
10 SHU at the nearby FCI-Dublin.

11 97. Plaintiffs DOUTHIT and Valerie MERCADEL were placed in
12 a cell together at FCI-Dublin.

13 98. On or about October 11, 1995, Plaintiff DOUTHIT
14 appeared before E. Porter, a Disciplinary Hearing Officer, for a
15 disciplinary hearing pertaining to her initial SHU placement.
16 Plaintiff DOUTHIT complained to Officer Porter about the problems
17 she had encountered. Officer Porter refused to listen to her
18 complaints, cautioned her that her allegations were "dangerous,"
19 and informed her that she had to write to his superior, Defendant
20 O. Ivan WHITE, the Western Regional Director of the Bureau of
21 Prisons, in order to initiate a complaint.

22 99. On October 15, 1995, Plaintiff MERCADEL wrote a letter
23 to Defendant WHITE, which she and Plaintiff DOUTHIT both signed.
24 In the letter they informed Defendant WHITE that their personal
25 safety and security had been violated by correctional officers at
26 the J-2 SHU at FDC-Pleasanton, and requested that an official
27 from outside FCI-Dublin be sent to investigate these problems.
28 Defendant WHITE failed to respond appropriately to this letter;

1 instead, he sent a copy of the letter to officials at FDC-
2 Pleasanton and/or FCI-Dublin, some of whom were the officials
3 accused of misconduct. Plaintiff DOUTHIT is informed and
4 believes that Defendant Lieutenant ERNST at FCI-Dublin was
5 assigned to investigate their complaints.

6 100. On or about October 16, 1995, Defendant Lieutenant
7 ERNST spoke with Plaintiff DOUTHIT and MERCADEL separately about
8 the problems they had encountered at FDC-Pleasanton, promising to
9 treat their interviews as confidential.

10 101. Plaintiff DOUTHIT is informed and believes, and
11 therefore alleges, that Defendant LIEUTENANT ERNST and/or
12 Defendant WHITE leaked, or caused the release of, the substance
13 of her statement to personnel and inmates at FCI-Dublin and/or
14 FDC-Pleasanton, knowing that such release would brand Plaintiff
15 as a "snitch" and place her safety and security at risk.

16 102. Within days after making these complaints, the
17 substance of Plaintiff DOUTHIT'S statement and the fact that
18 Plaintiff DOUTHIT had "snitched" were common knowledge among the
19 correctional staff. During this time, Plaintiff DOUTHIT remained
20 housed at FCI-Dublin.

21 103. Following the meeting with Defendant Lieutenant ERNST,
22 Plaintiff DOUTHIT was threatened and harassed by the correctional
23 staff at FCI-Dublin, including without limitation the following:

24 (a) On or about October 19, 1995, Defendant Captain
25 SMITH approached Plaintiffs DOUTHIT and MERCADEL at their cell,
26 and threatened to close the investigation regarding their
27 complaints of treatment at the J-2 SHU in order to intimidate
28 them.

1 (b) Subsequent to his threats to close the
2 investigation altogether, Defendant CAPTAIN SMITH threatened
3 Plaintiff DOUTHIT's physical safety and security, including, but
4 not limited to, threats to tell the other prisoners that
5 Plaintiff DOUTHIT was a "snitch", which Defendant SMITH knew
6 would endanger Plaintiff DOUTHIT's physical safety and security.

7 (c) Defendant Officer GILLETTE also came to Plaintiffs
8 DOUTHIT's and MERCADEL's cell at FCI-Dublin and attempted to
9 intimidate them into dropping their complaint.

10 104. Plaintiff is informed and believes that the conduct as
11 alleged herein was part of an effort by Defendants WHITE, ERNST,
12 SMITH and Officer GILLETTE to retaliate against her for her
13 complaints about her treatment in the J-2 SHU, and to intimidate
14 her into withdrawing said complaints, or to suppress evidence,
15 obstruct justice, and/or intimidate witnesses with regard to said
16 complaints.

17 105. Plaintiff DOUTHIT has suffered, and continues to
18 suffer, in addition to physical injury, severe psychological and
19 emotional trauma, including extraordinary fear, anxiety, and
20 depression as a consequence of the harassment, abuse,
21 discrimination, and retaliation Plaintiff DOUTHIT encountered at
22 the hands of male staff and prisoners at FDC-Pleasanton and FCI-
23 Dublin.

24 106. These actions and inactions by prison officials and
25 inmates, along with the complete failure of prison officials to
26 take any action to protect Plaintiff DOUTHIT intensified her
27 severe emotional and psychological trauma.

28 107. Plaintiff DOUTHIT is informed and believes and

1 therefore alleges that, in or around the period of her
2 incarceration at the J-2 SHU, other women prisoners were also
3 sexually harassed and assaulted after correctional officers,
4 including Defendant SAMUELS, unlocked their cell doors to admit
5 male inmates. Among the other women prisoners who were subject
6 to this harassment were two other African-American women
7 (Plaintiffs Robin LUCAS and Valerie MERCADEL), and three White
8 women.

9 108. Plaintiff DOUTHIT is informed and believes that other
10 women housed at the J-2 SHU also complained to prison officials
11 about sexual harassment and assault, including rape. Plaintiff
12 DOUTHIT is further informed and believes that a complaint by one
13 of the White women resulted in the removal of the White women
14 from the J-2 SHU on or about September 25, 1995. (The three
15 African-American women, including Plaintiff DOUTHIT, were not
16 removed until on or about October 5, 1995.)

17 109. On or about November 16, 1995, after the intervention
18 of her attorneys, Plaintiff DOUTHIT was transferred to the
19 Alameda County Jail, Santa Rita.

20 110. Plaintiff since was moved to the Alameda County Jail,
21 North County. She currently is housed at the Federal
22 Correctional Institute in Tallahassee, Florida.

23 111. Plaintiff DOUTHIT, on her own, and by and through her
24 attorneys, has submitted all grievances alleged herein, to
25 personnel at the Federal Bureau of Prisons, and has cooperated
26 fully in any and all formal internal investigations of the events
27 complained of herein, thereby fully exhausting all applicable
28 internal grievance mechanisms.

1 well as other female prisoners within their custody and control,
2 to sexual assaults, abuse and harassment by failing to enact,
3 maintain and properly implement and enforce appropriate policies
4 and procedures concerning security for female prisoners and the
5 prevention and handling of sexual assaults, abuse and harassment
6 of female prisoners confined within the Bureau of Prisons, and
7 especially the Western Region, including Camp Parks, FCI-Dublin
8 and FDC-Pleasanton.

9 116. Plaintiffs are informed and believe, and therefore
10 allege, that Defendant SAMUELS, and DOE defendants 1 through 15,
11 subjected Plaintiffs to sexual assaults, abuse and harassment by
12 directly encouraging, facilitating and cooperating with male
13 prisoners by unlocking their cell doors to permit male prisoners
14 to enter their cells at night without their consent, for the
15 purposes of perpetrating such assaults, abuse and harassment.

16 117. Plaintiffs are informed and believe and therefore
17 allege that certain correctional personnel, including but not
18 limited to, some or all of the Defendants in this action,
19 received money and/or other favors or benefits from male inmates,
20 and/or other correctional personnel, in return for providing
21 access to Plaintiffs' cells, and/or the cells of other female
22 inmates.

23 118. Defendants, and each of them, retaliated against
24 Plaintiffs, through intimidation, threats, sexual and other
25 physical assaults, abuse and harassment, as herein alleged, after
26 Plaintiffs' complained about their treatment on the J-2 SHU.

27 119. Defendants, and each of them, once they received actual
28 notice of sexual assaults, abuse and harassment against

1 Plaintiffs, as herein alleged, failed to adequately investigate
2 and take reasonable measures to protect Plaintiffs, including,
3 but not limited to their failure to keep obviously sensitive
4 information confidential, and to remove Plaintiffs from the men's
5 unit and/or to remove them from the facilities controlled by the
6 correctional personnel implicated in their complaints.

7 120. Plaintiffs are informed and believe and thereupon
8 allege that Defendants, and each of them, failed to properly
9 evaluate, train, discipline and supervise subordinate
10 correctional personnel. Defendants' failure to supervise, train,
11 discipline and evaluate subordinate correctional personnel
12 resulted in the acts complained of herein.

13 121. Plaintiffs are informed and believe that weeks or
14 months prior to the events complained of herein, female inmates
15 were housed at the J-2 unit and subjected to harassment similar
16 to that alleged herein. Plaintiffs are further informed and
17 believe that Defendants, and each of them, knew, or should have
18 known of these prior instances of harassment. Notwithstanding
19 the foregoing knowledge, Defendants failed to take action to
20 prevent similar harm to Plaintiffs. By permitting such
21 activities to continue unabated, Defendants, and each of them,
22 adopted a de facto policy of deliberate indifference to the
23 wrongful acts complained of herein and adopted, authorized,
24 ratified and approved a policy and practice of permitting illegal
25 sexual activity, sexual assault, sexual harassment, sexual
26 battery, molestation and retaliation against female inmates.

27 122. Plaintiffs are informed and believe that Defendants,
28 and each of them, failed to investigate the complaints received

1 from the White women housed on J-2 SHU concerning Defendant
2 SAMUELS, and/or other complaints regarding the J-2 SHU, as herein
3 alleged, and failed to take other action to protect Plaintiffs,
4 despite the fact that the information they received regarding
5 Defendant SAMUELS clearly indicated that he was unfit for his
6 position and that he was a threat to the safety and rights of
7 female inmates. Had Defendants investigated the information they
8 received about Defendant SAMUELS, Defendants could have prevented
9 the conduct alleged herein.

10 123. Plaintiffs are further informed and believe and
11 thereupon allege that Defendants WHITE, HAYES, SMITH, Officer
12 GILLETTE, Lieutenant GILLETTE, YARBOROUGH, ERNST and DOES 1
13 through 15, knew or should have known that Defendant SAMUELS was
14 unfit for the position of correctional officer and that Defendant
15 SAMUELS was a threat to the safety and rights of female inmates.
16 Notwithstanding the foregoing knowledge, Defendants failed to
17 take action to prevent Defendant SAMUELS from committing the
18 illegal acts complained of by the Plaintiffs herein. By
19 permitting such activity to continue unabated, Defendants, and
20 each of them, adopted a de facto policy of deliberate
21 indifference to the wrongful acts complained of herein and
22 adopted, authorized, ratified and approved a policy and practice
23 of permitting illegal sexual activity, sexual assault, sexual
24 harassment, sexual battery, molestation and retaliation against
25 female inmates.

26 124. The actions, conduct and inactions of Defendants, and
27 each of them, demonstrates a practice, custom, or policy of
28 reckless and deliberate indifference to instances of known or

1 suspected sexual assaults, intimidation, abuse, threats of
2 violence, sexual harassment, retaliation and other violations of
3 law violating Plaintiffs' Constitutional rights.

4 125. An actual controversy exists between Plaintiffs and
5 Defendants concerning their rights, privileges and obligations.

6 126. No adequate remedy at law exists which will completely
7 safeguard the Plaintiffs' legal rights and make the Plaintiffs
8 whole; the Plaintiffs, other female prisoners and the general
9 public will continue to be harmed and suffer irreparable loss and
10 injury, unless the Court orders appropriate injunctive relief.

11 FIRST CLAIM FOR RELIEF

12 (Bivens -- Eighth Amendment Cruel and Unusual
13 Punishment -- Deliberate Indifference to Prisoners'
14 Personal Security Interests; All Defendants)

15 127. Plaintiffs reallege and incorporate by reference each
16 allegation of paragraphs 1 through 126 above.

17 128. In acting and failing to act as alleged above,
18 Defendants, and each of them, through their pattern and practice
19 of permitting, facilitating and/or perpetrating sexual assaults,
20 intimidation, physical, sexual and verbal abuse, threats of
21 violence, sexual harassment, retaliation, and other violations of
22 law against Plaintiffs, and failing to properly investigate such
23 violations, as set forth herein, subjected Plaintiffs to
24 unnecessary and wanton infliction of pain and physical injury,
25 thereby violating the Plaintiffs' right to be free from cruel and
26 unusual punishment under the Eighth Amendment of the United
27 States Constitution.

28 129. As a proximate, direct and foreseeable result of the

1 Defendants' failure to ensure freedom from sexual assaults,
2 intimidation, physical, sexual and verbal abuse, threats of
3 violence, sexual harassment, retaliation and other violations of
4 law against Plaintiffs, and in failing to properly investigate
5 such violations, as set forth herein, Plaintiffs have suffered,
6 are suffering, and will continue to suffer irreparable harm and
7 damages in the form of pain and suffering, shame, humiliation,
8 degradation, emotional distress, embarrassment, mental distress
9 and other damages.

10 130. Defendants' acts and/or omissions were knowing,
11 willful, intentional, malicious, unnecessary, wanton, and
12 despicable, with reckless, callous or conscious disregard of the
13 rights of the Plaintiffs, entitling the Plaintiffs to an award of
14 exemplary damages.

15
16 SECOND CLAIM FOR RELIEF

17 (Bivens -- Eighth Amendment Failure to Train and
18 Supervise-- Deliberate Indifference to Prisoners'
19 Personal Security Interests; All Defendants)

20 131. Plaintiffs reallege and incorporate by reference each
21 allegation of paragraphs 1 through 126 above.

22 132. In acting and failing to act as alleged above,
23 Defendants, and each of them, through their failure to properly
24 evaluate, train, discipline and supervise subordinate custodial
25 personnel to prevent physical harm to, and/or sexual harassment
26 of, inmates, to investigate allegations of physical harm to
27 and/or sexual harassment of inmates, and to prevent retaliation
28 against inmates for complaints of such abuse, subjected

1 Plaintiffs to unnecessary and wanton infliction of pain and
2 physical and emotional injury, thereby violating their rights
3 under the Eight Amendment to the Constitution.

4 133. As a proximate, direct and foreseeable result of the
5 Defendants' failure to properly evaluate, train, discipline and
6 supervise subordinate custodial personnel as set forth herein,
7 Plaintiffs have suffered, are suffering, and will continue to
8 suffer irreparable harm and damages in the form of pain and
9 suffering, shame, humiliation, degradation, emotional distress,
10 embarrassment, mental distress and other damages.

11 134. Defendants' acts and/or omissions were knowing,
12 willful, intentional, malicious, unnecessary, wanton, and
13 despicable, with reckless, callous or conscious disregard of the
14 rights of the Plaintiffs, entitling the Plaintiffs to an award of
15 exemplary damages.

16
17 THIRD CLAIM FOR RELIEF

18 (Bivens -- Fifth Amendment Substantive Due Process --
19 Deliberate Indifference to Prisoners' Personal Security
20 Interests; All Defendants)

21 135. Plaintiffs reallege and incorporate by reference each
22 allegation of paragraphs 1 through 126 above.

23 136. In acting and failing to act as alleged above,
24 Defendants, and each of them, violated the Plaintiffs' right to
25 personal security, subjecting Plaintiffs to unnecessary and
26 wanton infliction of serious pain and physical and extraordinary
27 emotional and psychological injury in violation of their
28 substantive due process rights under the Fifth Amendment of the

1 United States Constitution.

2 137. As a proximate, direct and foreseeable result of the
3 Defendants' failure to ensure Plaintiffs' due process rights,
4 Plaintiffs have suffered, are suffering, and will continue to
5 suffer irreparable harm and damages in the form of pain and
6 suffering, shame, humiliation, degradation, emotional distress,
7 embarrassment, mental distress and other damages.

8 138. Defendants' acts were knowing, willful, intentional,
9 malicious, unnecessary, wanton, and despicable, with reckless,
10 callous or conscious disregard of the rights of the Plaintiffs,
11 entitling the Plaintiffs to an award of exemplary damages.

12

13 FOURTH CLAIM FOR RELIEF

14 (Bivens -- Fifth Amendment Equal Protection -- Gender
15 Discrimination; All Defendants)

16 139. Plaintiffs reallege and incorporate by reference each
17 allegation of paragraphs 1 through 126 above.

18 140. Defendants, and each of them, subjected Plaintiffs to
19 sexual assaults, abuse and harassment by placing Plaintiffs,
20 directing or approving placement of Plaintiffs, or failing to
21 remove Plaintiffs from placement on the J-2 SHU at FDC-
22 Pleasanton, an all-male tier under the constant supervision of
23 male custody staff, by subjecting Plaintiffs to sexual assaults,
24 abuse and harassment, and by failing to properly investigate
25 Plaintiffs' complaints, as set forth herein.

26 141. Plaintiff are informed and believe and therefore allege
27 that male prisoners within the custody and control of Defendants
28 were not similarly subjected to constant supervision and

1 observation by custody staff of the opposite gender, nor to the
2 sexual assaults, abuse and harassment experienced by plaintiffs
3 as alleged herein.

4 142. Defendants, and each of them, in acting or failing to
5 act as alleged above, did so intentionally. Their actions and
6 inactions did not serve important governmental objectives, nor
7 were the means they employed substantially related to the
8 achievement of important governmental objectives.

9 143. Defendants, and each of them, thereby subjected
10 Plaintiffs to sexual assaults, abuse and harassment, causing
11 Plaintiffs unnecessary and wanton infliction of serious physical
12 injury and pain and extraordinary emotional and psychological
13 injury, on account of their gender, in violation of their rights
14 under the Equal Protection component of the Fifth Amendment of
15 the United States Constitution.

16 144. As a proximate, direct and foreseeable result of the
17 Defendants' failure to ensure Plaintiffs' right to equal
18 protection, the Plaintiffs have suffered, are suffering, and will
19 continue to suffer irreparable harm and damages in the form of
20 pain and suffering, shame, humiliation, degradation, emotional
21 distress, embarrassment, mental distress and other damages.

22 145. Defendants' acts were knowing, willful, intentional,
23 malicious, unnecessary, wanton, and despicable, with reckless,
24 callous or conscious disregard of the rights of the Plaintiffs,
25 entitling the Plaintiffs to an award of exemplary damages.

26
27
28

1 FIFTH CLAIM FOR RELIEF

2 (Bivens -- Fifth Amendment Equal Protection -- Race
3 Discrimination; All Defendants)

4 146. Plaintiffs reallege and incorporate by reference each
5 allegation of paragraphs 1 through 126 above.

6 147. Defendants, and each of them, subjected Plaintiffs to
7 ongoing sexual abuse and harassment by failing to immediately
8 remove Plaintiffs from the J-2 SHU or otherwise take measures to
9 protect them or properly investigate after receiving actual
10 notice of sexual assaults, abuse and harassment against female
11 prisoners on the J-2 SHU.

12 148. Plaintiffs, who are African American, are informed and
13 believe that they were left confined at the J-2 SHU, and
14 subjected to further, unnecessary risk of sexual assaults, abuse
15 and harassment, for several days after White, female prisoners
16 confined at the J-2 SHU were moved out of that tier and housed in
17 a prison or tier designated for female prisoners because of known
18 sexual assaults, abuse and harassment.

19 149. Defendants, and each of them, in acting or failing to
20 act as alleged above, did so intentionally. Their actions and
21 inactions did not serve compelling governmental objectives, nor
22 were the means they employed narrowly tailored to achieve such
23 governmental objectives.

24 150. Defendants, and each of them, thereby subjected
25 Plaintiffs to additional sexual assaults, abuse and harassment,
26 causing Plaintiffs unnecessary and wanton infliction of serious
27 physical injury and pain and extraordinary emotional and
28 psychological injury, on account of their race, in violation of

1 their rights under the Equal Protection component of the Fifth
2 Amendment of the United States Constitution.

3 151. As a proximate, direct and foreseeable result of the
4 defendants' failure to ensure Plaintiffs' right to equal
5 protection, the Plaintiffs have suffered, are suffering, and will
6 continue to suffer irreparable harm and damages in the form of
7 pain and suffering, shame, humiliation, degradation, emotional
8 distress, embarrassment, mental distress and other damages.

9 152. Defendants' acts were knowing, willful, intentional,
10 malicious, unnecessary, wanton, and despicable, with reckless,
11 callous or conscious disregard of the rights of the Plaintiffs,
12 entitling the Plaintiffs to an award of exemplary damages.

13

14

SIXTH CLAIM FOR RELIEF

15 (Bivens -- Retaliation For Exercise of First Amendment
16 Rights; All Defendants)

17 153. Plaintiffs reallege and incorporate by reference each
18 allegation of paragraphs 1 through 126 above.

19 154. Defendants, and each of them, subjected Plaintiffs to
20 sexual assaults, abuse and harassment, and/or failed to
21 adequately investigate and take reasonable measures to protect
22 Plaintiffs, as described herein, in retaliation for Plaintiffs'
23 complaints to prison authorities regarding such unlawful conduct.

24 155. In acting and failing to act as alleged above,
25 Defendants, and each of them, acted or failed to act
26 intentionally. They thereby subjected Plaintiffs to sexual
27 assaults, abuse and harassment which caused Plaintiffs
28 unnecessary and wanton infliction of serious physical injury and

1 pain and extraordinary emotional and psychological injury in
2 violation of their rights under the First Amendment of the United
3 States Constitution.

4 156. As a proximate, direct and foreseeable result of the
5 defendants' failure to ensure Plaintiffs' First Amendment rights,
6 the Plaintiffs have suffered, are suffering, and will continue to
7 suffer irreparable harm and damages in the form of pain and
8 suffering, shame, humiliation, degradation, emotional distress,
9 embarrassment, mental distress and other damages.

10 157. Defendants' acts were knowing, willful, intentional,
11 malicious, unnecessary, wanton, and despicable, with reckless,
12 callous or conscious disregard of the rights of the Plaintiffs,
13 entitling the Plaintiffs to an award of exemplary damages.

14
15 SEVENTH CLAIM FOR RELIEF

16 (Bivens -- Fourth Amendment Privacy; All Defendants)

17 158. The allegations contained in paragraphs 1 through 126
18 of the Complaint are hereby realleged and incorporated by
19 reference.

20 159. Through their pattern and practice of sexual assaults,
21 intimidation, abuse, threats of violence, sexual harassment, and
22 other violations of law against Plaintiffs, and failure to
23 properly investigate Plaintiffs' claims, as alleged herein,
24 Defendants, and each of them, have violated the right of privacy,
25 right to bodily integrity and right to bodily privacy guaranteed
26 to the Plaintiffs by the Fourth Amendment of the United States
27 Constitution.

28 160. As a proximate, direct and foreseeable result of the

1 Defendants' failure to ensure the privacy rights, right to bodily
2 integrity and right to bodily privacy of Plaintiffs, they have
3 suffered, are suffering, and will continue to suffer irreparable
4 harm and damages in the form of pain and suffering, shame,
5 humiliation, degradation, emotional distress, embarrassment,
6 mental distress and other damages.

7 161. Defendants' acts were willful, intentional, malicious,
8 wanton, and despicable in conscious disregard of the rights of
9 the Plaintiffs, entitling the Plaintiffs to an award of exemplary
10 damages.

11
12 EIGHTH CLAIM FOR RELIEF

13 (Bivens -- Fifth Amendment Privacy; All Defendants)

14 162. The allegations contained in paragraphs 1 through 126
15 of the Complaint are hereby realleged and incorporated by
16 reference.

17 163. Through their pattern and practice of sexual assaults,
18 intimidation, abuse, threats of violence, sexual harassment, and
19 other violations of law against Plaintiffs, and failure to
20 properly investigate Plaintiffs' claims, as alleged herein,
21 Defendants, and each of them, have violated the right of privacy
22 guaranteed to the Plaintiffs by the Fifth Amendment of the United
23 States Constitution.

24 164. As a proximate, direct and foreseeable result of
25 Defendants' failure to ensure the privacy rights of Plaintiffs,
26 they have suffered, are suffering, and will continue to suffer
27 irreparable harm and damages in the form of pain and suffering,
28 shame, humiliation, degradation, emotional distress,

1 embarrassment, mental distress and other damages.

2 165. Defendants' acts were willful, intentional, malicious,
3 wanton, and despicable in conscious disregard of the rights of
4 the Plaintiffs, entitling the Plaintiffs to an award of exemplary
5 damages.

6 NINTH CLAIM FOR RELIEF

7 (Federal Tort Claims Act; Defendant United States of America)

8 166. Plaintiffs reallege and incorporate by reference each
9 allegation of paragraphs 1 through 126 above.

10 167. All Defendants are or were at all pertinent times
11 employees of the United States of America employed within the
12 United States Bureau of Prisons.

13 168. By way of the actions and inactions of Defendants
14 within the scope of their employment, as alleged above, the
15 United States of America tortiously subjected Plaintiffs to
16 physical injury, and emotional and psychological injury resulting
17 from the physical injury, under circumstances where the United
18 States of America, if a private person, would be liable to
19 Plaintiffs in accordance with the law of the State of California.

20 169. The United States of America, by way of Defendants owed
21 Plaintiffs a duty of care including, but not limited to, the duty
22 arising from Plaintiffs' involuntary status as prisoners in the
23 custody of the Bureau of Prisons, as set forth in 18 U.S.C.
24 § 4042.

25 170. The United States of America, by way of the actions and
26 inactions of the Defendants, negligently breached the duty of
27 care owed to Plaintiffs in the following respects, among others:
28 by placing Plaintiffs in the J-2 SHU, a male unit, in the FDC

1 Pleasanton, a male institution; by failing to promptly remove
2 Plaintiffs from the J-2 SHU and FDC Pleasanton once they were
3 housed there; by failing, despite knowledge or reason to know of
4 prior sexual assaults and harassment against female inmates
5 housed on the J-2 SHU or at FDC Pleasanton, to take measures to
6 protect Plaintiffs or promptly remove them once they were housed
7 there; by participating in, facilitating, or allowing sexual
8 assaults, harassment and threats against Plaintiffs, including
9 conduct perpetrated by male prisoners; by failing to investigate
10 or adequately investigate Plaintiffs' complaints that they had
11 been sexually assaulted, harassed, and threatened while housed on
12 the J-2 SHU at FDC Pleasanton; by failing to immediately move
13 Plaintiffs or take measures to protect Plaintiffs in response to
14 Plaintiffs' complaints that they had been sexually assaulted,
15 harassed and threatened while housed on the J-2 SHU at FDC
16 Pleasanton; by failing to promptly provide plaintiffs with
17 adequate medical and mental health care once they learned
18 Plaintiffs had been sexually assaulted, harassed, and threatened;
19 by failing to adequately train supervisory and subordinate
20 employees regarding the prevention of, intervention in, and
21 response to sexual assaults and harassment against female
22 inmates; by failing to adequately supervise subordinate employees
23 regarding the prevention of, intervention in, and response to
24 sexual assaults and harassment against female inmates; by
25 failing, in the hiring of new employees for positions involving
26 regular interaction with female inmates, to adequately screen
27 prospective employees; by retaining employees in, or failing to
28 reassign employees from, positions involving regular interaction

1 with female inmates, despite knowledge or reason to know that
2 such employees had engaged in or facilitated or condoned sexual
3 misconduct against female inmates; by sexually assaulting and
4 battering Plaintiff LUCAS and by facilitating and/or
5 participating in assault and battery, including sexual assault
6 and battery, against all Plaintiffs; by harassing and sexually
7 harassing all Plaintiffs by failing to protect Plaintiffs from
8 sexual and physical assaults; by failing to provide appropriate
9 medical and mental health care to all Plaintiffs.

10 171. As a proximate, direct and foreseeable result of the
11 actions and inactions of the United States of America by way of
12 its employees, Defendants and DOES 1-15, as set forth above,
13 Plaintiffs have suffered, are suffering, and will continue to
14 suffer irreparable harm and damages in the form of physical
15 injuries, and emotional and psychological injuries resulting from
16 the physical injuries.

17 172. Each Plaintiff presented her claims to the United
18 States Bureau of Prisons, in compliance with the requirements of
19 28 U.S.C. § 2675, on or about August 13, 1996, by serving upon
20 the United States Bureau of Prisons a completed and properly
21 documented administrative claim form.

22 173. The United States Bureau of Prisons denied each
23 Plaintiff's administrative claims by way of letters dated July
24 25, 1997.

25 174. Plaintiffs have exhausted all administrative claim
26 requirements of the Federal Tort Claims Act, 42 U.S.C. §§ 1346(b)
27 and 2671, et seq., and may institute this timely action against
28 the United States of America for the actions and inactions of its

1 employees, Defendants and DOES 1-15, as alleged above.

2
3 DEMAND FOR JURY TRIAL

4 175. Plaintiffs hereby demand a jury trial as provided by
5 Rule 38 of the Federal Rules of Civil Procedure.

6
7 PRAYER FOR RELIEF


8 WHEREFORE, Plaintiffs pray for judgment against
9 Defendants, and each of them, as follows:

- 10 1. Compensatory damages for each Plaintiff according to
11 proof;
- 12 2. Punitive damages for each Plaintiff according to proof;
- 13 3. As against Defendants HAWK, CARLSON, REESE, HARDING and
14 GREER in their official capacities, appropriate injunctive relief
15 for Plaintiffs MERCADEL and DOUTHIT, and on behalf of all female
16 inmates in the custody of the Bureau of Prisons.
- 17 4. For costs and attorneys' fees; and
- 18 5. For such additional relief as may be just and proper.

19
20 Dated: October 1, 1997

ROSEN, BIEN & ASARO

21
22 By


Michael W. Bien
Attorneys for Plaintiffs

23
24 LAW OFFICES OF GERI L. GREEN

25
26
27 By

Gerl L. Green
Attorneys for Plaintiffs

1 employees, Defendants and DOES 1-15, as alleged above.

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11 proof;

12 2. Punitive damages for each Plaintiff according to proof;

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17 4. For costs and attorneys' fees; and

18 5. For such additional relief as may be just and proper.

20 Dated: October __, 1997

ROSEN, BIEN & ASARO

22 By

Michael W. Bien
Attorneys for Plaintiffs

24 LAW OFFICES OF GERI L. GREEN

26 By

27 Geri L. Green
Attorneys for Plaintiffs

672 (1) PLEADING
COMPLETE 1/95

AMENDED COMPLAINT FOR DAMAGES
Lessa V. White, et al.

Sep 30 '97 17:14 P.02/02

Fax: 1-415-433-7104

ROSEN, BIEN & ASARO

1 PROOF OF SERVICE

2 I, the undersigned, certify and declare that I am citizen of
3 the United States of America and over the age of 18 years, employed
4 in the City and County of San Francisco, California, and not a
5 party to the within action. I am employed by Rosen, Bien & Asaro
6 counsel for the plaintiff (s) in this action. My business address
7 is 155 Montgomery Street, 8th Floor, San Francisco, California. On
8 the date indicated below I served a true copy of the attached:

9 **CIVIL SHEET; SUMMONS; AMENDED COMPLAINT FOR DAMAGES AND**
10 **INJUNCTIVE RELIEF**

11 on the parties in said action by placing a true copy thereof
12 enclosed in a sealed envelope and with postage thereon fully
13 prepaid, in the United States mail in San Francisco, California,
14 addressed as follows:

15 **BY CERTIFIED MAIL**

16 Nina Pelletier, Esq.
17 U.S. Department of Justice
18 Civil Division, Torts Branch
P.O. Box 7146
Washington, D.C. 20044-7146

BY CERTIFIED MAIL

Michael J. Yamaguchi
United States Attorney
450 Golden Gate Ave.,
11th Floor
San Francisco, CA 94102

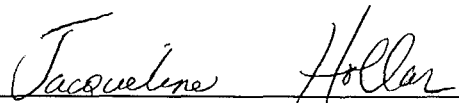
19 **BY CERTIFIED MAIL**

20 Garfield Samuels
21 c/o Rufus Cole, Esq.
22 720 Market Street, Penthouse
San Francisco, CA 94102

BY CERTIFIED MAIL

Hon. Janet Reno
US Attorney General
Dept. Of Justice
950 Pennsylvania Ave., NW
Room 4400
Washington, D.C. 20530-4400

23 I declare under penalty of perjury that the foregoing is true
24 and correct. Executed this 1st day of October, 1997, at San
25 Francisco, California.

26
27 
28 _____
Jacqueline E. Hollar

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PROOF OF SERVICE

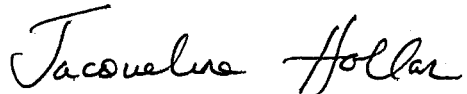
I, the undersigned, certify and declare that I am citizen of the United States of America and over the age of 18 years, employed in the City and County of San Francisco, California, and not a party to the within action. I am employed by Rosen, Bien & Asaro counsel for the plaintiff (s) in this action. My business address is 155 Montgomery Street, 8th Floor, San Francisco, California. On the date indicated below I served a true copy of the attached:

SUMMONS AND AMENDED COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF

on the parties in said action by placing a true copy thereof enclosed in a sealed envelope and with postage thereon fully prepaid, in the United States mail in San Francisco, California, addressed as follows:

BY CERTIFIED MAIL
(Last Known Address)
Garfield Samuels
650 Mandana Blvd.
Oakland, CA 94610

I declare under penalty of perjury that the foregoing is true and correct. Executed this 14th day of October, 1997, at San Francisco, California.



Jacqueline E. Hollar

PROOF OF SERVICE
CASE NO. C-96-2905-TEH MED