

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION

Garcia Wilson,

Plaintiff,

-vs-

SOUTH CAROLINA DEPARTMENT OF  
CORRECTIONS; WARDEN RICHARD  
COTHRAN, individually and/or in his official  
capacity as warden at Turbeville Correctional  
Institution; WARDEN WILLIE EAGLETON,  
individually and/or in his official capacity as  
warden of Evans Correctional Institution,  
ASSOCIATE WARDEN ANNIE SELLERS,  
individually and/or in her official capacity as  
an Associate Warden at Evans Correctional  
Institution, CORRECTIONAL OFFICER  
MCFADDEN, individually and/or in his official  
capacity as an employee of SCDC, CORRECTIONAL  
OFFICER SMITH, individually and/or in his official  
capacity as an employee of SCDC, CORRECTIONAL  
OFFICER DAVIS, individually and/or in his official  
capacity as an employee of SCDC; CORRECTIONAL  
OFFICER SGT. PARKER, individually and/or in  
his official capacity as an employee of SCDC;  
CORRECTIONAL OFFICER GILLESPIE, individually  
and/or in his official capacity as an employee of SCDC;  
CORRECTIONAL OFFICER OCEAN, individually  
and/or in his/her official capacity as an employee  
of SCDC; CORRECTIONAL OFFICER MAJOR  
CHARLES WEST, individually and/or in his official  
capacity as an employee of SCDC

Defendants.

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**NOTICE OF REMOVAL OF A CIVIL ACTION**

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Defendants South Carolina Department of Corrections, Richard Cothran individually and  
in his official capacity as Warden of Turbeville Correctional Institution, Officer Sgt. Parker

individually and in her official capacity as an employee of SCDC, Officer Gillespie individually and in her official capacity as an employee of SCDC, and Officer Major Charles West individually and in his official capacity as an employee of SCDC, would respectfully show unto this Court:

1. These Defendants are defendants in an action in the County of Marlboro Court of Common Pleas, South Carolina, entitled Garcia Wilson v South Carolina Department of Corrections; Warden Richard Cothran, individually and in his capacity as warden of Turbeville Correctional Institution, Willie Eagleton individually and in his official capacity as warden of Evans Correctional Institution, Annie Sellers individually and in her official capacity as Associate Warden of Evans Correctional Institution, Correctional Officer McFadden individually and in his official capacity as an employee of SCDC, Officer Smith individually and in his official capacity as an employee of SCDC, Officer Davis individually and in his official capacity as an employee of SCDC, Officer Sgt. Parker individually and in his official capacity as an employee of SCDC, Officer Gillespie individually and in his official capacity as an employee of SCDC, Officer Ocean individually and in his official capacity as an employee of SCDC, Officer Major Charles West individually and in his official capacity as an employee of SCDC, Civil Case No. 2017-CP-34-278.

2. The Summons and Complaint in the state court action described in Paragraph One was, upon information and belief, served and received by Defendant South Carolina Department of Corrections, Richard Cothran as Warden for Turbeville Correctional Institution, Officer Sgt. Andrea M. Parker, Officer Charles West, and Officer Sabrina S. Gillespie on or about October 23, 2017, by acceptance of service. Copies of all papers received are attached as Exhibit A.

3. Notice of Removal is made within 30 days after the action commenced as required by 28 U.S.C.A. §144(e)(1).

4. The United States District Court has original jurisdiction over this action pursuant to the provisions of 28 U.S.C. §§1331 and 1343, in that the Complaint alleges causes of action under 42 U.S.C. §1983 and the deprivation of constitutional rights secured by the Constitution and the laws of the United States of America.

5. This suit is one which may be removed to the United States District Court by Defendants pursuant to the provisions of 28 U.S.C. §1441(b), as one or more of the claims arise as under the constitution under the laws of the United States of America.

6. All Defendants consent to the removal of this action.

7. Pursuant to U.S.C.A. §1446, the Clerk of the County of Marlboro Court of Common Pleas has been provided a copy of this Notice of Removal.

WHEREFORE, the entire action described in Paragraph One is properly removed from state court to the United States District Court pursuant to 28 U.S.C.A. §1441, *et. seq.*

Respectfully submitted,

LEE, ERTER, WILSON,  
HOLLER & SMITH, LLC

s/David C. Holler

David C. Holler  
Federal Court ID No. 5608  
126 North Main Street  
Post Office Box 580  
Sumter, South Carolina 29151  
803-778-2471

[Davidholler@leeandmoise.com](mailto:Davidholler@leeandmoise.com)

**ATTORNEY FOR DEFENDANTS**

November 8, 2017

STATE OF SOUTH CAROLINA )

COUNTY OF MARLBORO )

IN THE COURT OF COMMON PLEAS

GARCIA WILSON, )

Plaintiff(s) )

CIVIL ACTION COVERSHEET

vs. )

2017-CP - 34 - 278

SOUTH CAROLINA DEPARTMENT OF )  
CORRECTIONS, ET AL., )

Defendant(s) )

Submitted By: J. Edward Bell, III  
Address: 219 North Ridge Street  
Georgetown, SC 29440

SC Bar #: 631  
Telephone #: 843-546-2408  
Fax #: 843-546-9604  
Other:  
E-mail: edbell@edbelllaw.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

\*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint.  NON-JURY TRIAL demanded in complaint.
- This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- |  |   |  |   |
|--|---|--|---|
| <input type="checkbox"/> <b>Contracts</b><br><input type="checkbox"/> Constructions (100)<br><input type="checkbox"/> Debt Collection (110)<br><input type="checkbox"/> General (130)<br><input type="checkbox"/> Breach of Contract (140)<br><input type="checkbox"/> Fraud/Bad Faith (150)<br><input type="checkbox"/> Failure to Deliver/Warranty (160)<br><input type="checkbox"/> Employment Discrim (170)<br><input type="checkbox"/> Employment (180)<br><input type="checkbox"/> Other (199) _____ | <input type="checkbox"/> <b>Torts - Professional Malpractice</b><br><input type="checkbox"/> Dental Malpractice (200)<br><input type="checkbox"/> Legal Malpractice (210)<br><input type="checkbox"/> Medical Malpractice (220)<br>Previous Notice of Intent Case #<br>2016-NI-26-00009<br><input type="checkbox"/> Notice/ File Med Mal (230)<br><input type="checkbox"/> Other (299) _____  | <input type="checkbox"/> <b>Torts - Personal Injury</b><br><input type="checkbox"/> Conversion (310)<br><input type="checkbox"/> Motor Vehicle Accident (320)<br><input type="checkbox"/> Premises Liability (330)<br><input type="checkbox"/> Products Liability (340)<br><input checked="" type="checkbox"/> Personal Injury (350)<br><input type="checkbox"/> Wrongful Death (360)<br><input type="checkbox"/> Assault/Battery (370)<br><input type="checkbox"/> Slander/Libel (380)<br><input type="checkbox"/> Other (399) _____  | <input type="checkbox"/> <b>Real Property</b><br><input type="checkbox"/> Claim & Delivery (400)<br><input type="checkbox"/> Condemnation (410)<br><input type="checkbox"/> Foreclosure (420)<br><input type="checkbox"/> Mechanic's Lien (430)<br><input type="checkbox"/> Partition (440)<br><input type="checkbox"/> Possession (450)<br><input type="checkbox"/> Building Code Violation (460)<br><input type="checkbox"/> Other (499) _____  |
| <input type="checkbox"/> <b>Inmate Petitions</b><br><input type="checkbox"/> PCR (500)<br><input type="checkbox"/> Mandamus (520)<br><input type="checkbox"/> Habeas Corpus (530)<br><input type="checkbox"/> Other (599) _____  | <input type="checkbox"/> <b>Administrative Law/Relief</b><br><input type="checkbox"/> Reinstate Drv. License (800)<br><input type="checkbox"/> Judicial Review (810)<br><input type="checkbox"/> Relief (820)<br><input type="checkbox"/> Permanent Injunction (830)<br><input type="checkbox"/> Forfeiture-Petition (840)<br><input type="checkbox"/> Forfeiture-Consent Order (850)<br><input type="checkbox"/> Other (899) _____ | <input type="checkbox"/> <b>Judgments/Settlements</b><br><input type="checkbox"/> Death Settlement (700)<br><input type="checkbox"/> Foreign Judgment (710)<br><input type="checkbox"/> Magistrate's Judgment (720)<br><input type="checkbox"/> Minor Settlement (730)<br><input type="checkbox"/> Transcript Judgment (740)<br><input type="checkbox"/> Lis Pendens (750)<br><input type="checkbox"/> Transfer of Structured Settlement Payment Rights Application (760)<br><input type="checkbox"/> Confession of Judgment (770)<br><input type="checkbox"/> Petition for Workers Compensation Settlement Approval (780)<br><input type="checkbox"/> Other (799) _____ | <input type="checkbox"/> <b>Appeals</b><br><input type="checkbox"/> Arbitration (900)<br><input type="checkbox"/> Magistrate-Civil (940)<br><input type="checkbox"/> Magistrate-Criminal (920)<br><input type="checkbox"/> Municipal (930)<br><input type="checkbox"/> Probate Court (940)<br><input type="checkbox"/> SEDOT (950)<br><input type="checkbox"/> Worker's Comp (960)<br><input type="checkbox"/> Zoning Board (970)<br><input type="checkbox"/> Public Service Comm. (990)<br><input type="checkbox"/> Employment Security Comm (991)<br><input type="checkbox"/> Other (999) _____ |
| <input type="checkbox"/> <b>Special/Complex /Other</b><br><input type="checkbox"/> Environmental (600)<br><input type="checkbox"/> Automobile Arb. (610)<br><input type="checkbox"/> Medical (620)<br><input type="checkbox"/> Other (699) _____<br><input type="checkbox"/> Sexual Predator (510)<br><input type="checkbox"/> Permanent Restraining Order (680)   | <input type="checkbox"/> <b>Pharmaceuticals (630)</b><br><input type="checkbox"/> <b>Unfair Trade Practices (640)</b><br><input type="checkbox"/> <b>Out-of State Depositions (650)</b><br><input type="checkbox"/> <b>Motion to Quash Subpoena in an Out-of-County Action (660)</b><br><input type="checkbox"/> <b>Pre-Suit Discovery (670)</b>  |  |   |

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 J. EDWARD BELL, III

Submitting Party Signature: Victoria S.H. Knight Date: Sept 18, 2017  
 SC Bar# 3234

**Note:** Frivolous civil proceedings may be subject to sanctions pursuant to SCRPC, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

**Effective January 1, 2016,** Alternative Dispute Resolution (ADR) is mandatory in all counties, pursuant to Supreme Court Order dated November 12, 2015.

**SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.**

**Pursuant to the ADR Rules, you are required to take the following action(s):**

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210<sup>th</sup> day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs.
4. Cases are exempt from ADR only upon the following grounds:
  - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
  - b. Requests for temporary relief;
  - c. Appeals
  - d. Post Conviction relief matters;
  - e. Contempt of Court proceedings;
  - f. Forfeiture proceedings brought by governmental entities;
  - g. Mortgage foreclosures; and
  - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR. Failure to do so may affect your case or may result in sanctions.**

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 MARLBORO COUNTY

STATE OF SOUTH CAROLINA  
COUNTY OF MARLBORO

) IN THE COURT OF COMMON PLEAS  
) FOURTH JUDICIAL CIRCUIT  
) CIVIL CASE NO.: 2017-CP-34-218

GARCIA WILSON,  
  
Plaintiff,

vs.

**SUMMONS**

SOUTH CAROLINA DEPARTMENT OF )  
CORRECTIONS; WARDEN RICHARD )  
COTHRAN, individually and/or in his official )  
capacity as warden at Turbeville Correctional )  
Institution; WARDEN WILLIE EAGELTON, )  
individually and/or in his official capacity as )  
warden of Evans Correctional Institution, )  
CORRECTIONAL OFFICER MCFADDEN, )  
individually and/or in his official capacity as an )  
employee of SCDC, CORRECTIONAL OFFICER )  
SMITH, individually and/or in his official capacity )  
as an employee of SCDC, CORRECTIONAL )  
OFFICER DAVIS, individually and/or in his )  
official capacity as an employee of SCDC, )  
CORRECTIONAL OFFICER SGT. PARKER, )  
individually and/or in his official capacity as an )  
employee of SCDC, CORRECTIONAL OFFICER )  
GILLESPIE, individually and/or in his official )  
capacity as an employee of SCDC, and )  
CORRECTIONAL OFFICER MAJOR CHARLES )  
WEST, individually and/or in his official capacity )  
as an employee of SCDC, )

Defendants.

**TO THE DEFENDANT ABOVE-NAMED:**

**YOU ARE HEREBY SUMMONED** and required to answer the Complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your Answer to said Complaint to the subscribed at BELL LEGAL GROUP, 219 NORTH RIDGE STREET, GEORGETOWN, SOUTH CAROLINA 29440 within THIRTY (30) DAYS after the service hereof, exclusive of the date of such service; and if you fail to answer the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Complaint.

**SIGNATURE PAGE TO FOLLOW**

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MARLBORO COUNTY

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MARLBORO COUNTY  
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*Victoria S. H. Knight*

J. Edward Bell, III  
Victoria S. H. Knight  
Bell Legal Group, LLC  
P. O. Box 2590  
Georgetown, SC 29442  
Telephone: 843-546-2408  
Facsimile: 843-546-2906

September 18, 2017

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MARLBORO COUNTY

STATE OF SOUTH CAROLINA

COUNTY OF MARLBORO

GARCIA WILSON,

Plaintiff,

vs.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS; WARDEN RICHARD COTHRAN, individually and/or in his official capacity as warden at Turbeville Correctional Institution; WARDEN WILLIE EAGELTON, individually and/or in his official capacity as warden of Evans Correctional Institution, ASSOCIATE WARDEN ANNIE SELLERS, Individually and in her official capacity as an Associate warden at Evans Correctional Institution, CORRECTIONAL OFFICER MCFADDEN, individually and/or in his official capacity as an employee of SCDC, CORRECTIONAL OFFICER SMITH, individually and/or in his official capacity as an employee of SCDC, CORRECTIONAL OFFICER DAVIS, individually and/or in his official capacity as an employee of SCDC, CORRECTIONAL OFFICER SGT. PARKER, individually and/or in his official capacity as an employee of SCDC, CORRECTIONAL OFFICER GILLESPIE, individually and/or in his official capacity as an employee of SCDC, CORRECTIONAL OFFICER OCEAN, individually and/or in his/her official capacity as an employee of SCDC, CORRECTIONAL OFFICER MAJOR CHARLES WEST, individually and/or in his official capacity as an employee of SCDC,

Defendants.

) IN THE COURT OF COMMON PLEAS  
) FOURTH JUDICIAL CIRCUIT  
) CIVIL CASE NO.: 2017-CP-34-278

**COMPLAINT**

(Violation of the Fifth, Seventh, Eighth, and Fourteenth Amendments to the United States Constitution under 42 U.S.C. Section 1983; violation of the South Carolina Tort Claims Act, S.C Code Section 15-78-10, et. seq.; temporary and permanent injunctions)

**JURY TRIAL DEMANDED**

The Plaintiff, complaining of the Defendants, would respectfully show the Court the following:

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**JURISDICTION AND VENUE**

1. This is an action for relief brought pursuant to the Tort Claims Act of South Carolina, S.C. Code Section 15-78-10 et seq. (hereinafter referred to as the Tort Claims Act), 42 U.S.C. Section 1983, and the Fifth, Seventh, Eighth and Fourteenth Amendments to the United States Constitution. Additionally, Plaintiffs seek temporary and permanent injunctive relief pursuant Section 15-43-30 of the South Carolina Code of Laws Ann., 1976, as amended, Rule 65(b) of the South Carolina Rules of Civil Procedure, and 42 U.S.C. Section 1983 to require the Defendant SCDC to provide him and others similarly situated a safe and secure housing arrangement with the appropriate policies and procedures and supervision in place and enforced to insure that they are secure and/or free from the threats of harm or death by attacks from other inmates with and/or without the complicity of the administration, staff and/or correctional officers.

2. The majority of actions and omissions for which claims are stated herein occurred in the County of Marlboro, State of South Carolina; therefore, jurisdiction and venue are proper before this Court.

**PARTIES**

3. Plaintiff Garcia Wilson (hereinafter referred to as 'Plaintiff') is currently incarcerated at Ridgeland Correctional Institution, Ridgeland, South Carolina, State of South Carolina.

4. Defendant South Carolina Department of Corrections (hereinafter referred to as "Defendant SCDC") is a "governmental entity" organized and existing under the laws of the State of South Carolina and within the meaning of the South Carolina Tort Claims Act at South Carolina Code Ann. Section 15-78-30(d).

5. Upon information and belief, Defendant Warden Richard Cothran was, and at all times relevant to the matter complained of, the Warden at Turbeville Correctional Institution in Turbeville, South Carolina, a subdivision of Defendant SCDC, and, at all times material to the allegations in this Complaint, was acting individually and/or as an agent and/or employee in the course and scope of his official duty with the Defendant SCDC, and was at all times herein charged with the management of all staff regarding hiring, training, promotion, discipline, evaluation and firing; maintaining a safe working environment; monitoring compliance with all state policies and procedures; overseeing prison programs in education, mental health and infirmary; enforcing rules, regulations, policies, and laws regarding incarceration and employee conduct; enforcing policies regarding intake, classification, treatment programs and discipline; maintaining a proper system for the proper care, humane treatment, feeding, clothing, and safety of inmates. an institution operated by Defendant SCDC.

6. Upon information and belief, Defendant Willie Eagleton (hereinafter referred to as "Defendant Warden Eagleton" is the warden of Evans Correctional Institution, Bennettsville, south Carolina, a subdivision of Defendant SCDC, and, at all times material to the allegations in this Complaint, was acting individually and/or as an agent and/or employee in the course and scope of his official duty with the Defendant SCDC, and was at all times herein charged with the

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management of all staff regarding hiring, training, promotion, discipline, evaluation and firing; maintaining a safe working environment; monitoring compliance with all state policies and procedures; overseeing prison programs in education, mental health and infirmary; enforcing rules, regulations, policies, and laws regarding incarceration and employee conduct; enforcing policies regarding intake, classification, treatment programs and discipline; maintaining a proper system for the proper care, humane treatment, feeding, clothing, and safety of inmates.

7. Upon information and belief, Defendant Annie Sellers (hereinafter referred to as "Defendant AW Sellers" is the associate warden of Evans Correctional Institution, a subdivision of Defendant SCDC, and, at much of the times material to the allegations in this Complaint, was acting individually and/or as an agent and/or employee in the course and scope of his official duty with the Defendant SCDC, and was at all times herein charged with the management of all staff regarding hiring, training, promotion, discipline, evaluation and firing; maintaining a safe working environment; monitoring compliance with all state policies and procedures; overseeing prison programs in education, mental health and infirmary; enforcing rules, regulations, policies, and laws regarding incarceration and employee conduct; enforcing policies regarding intake, classification, treatment programs and discipline; maintaining a proper system for the proper care, humane treatment, feeding, clothing, and safety of inmates.

8. Upon information and belief, Defendant Correctional Officer McFadden was and, at all times relevant hereto, employed as a correctional officer at Turbeville Correctional Institution in Turbeville, South Carolina and was acting individually and/or as an agent and/or employee in the course and scope of his/her official duty with the Defendant SCDC.

9. Upon information and belief, Defendant Correctional Officer Smith was and, at all times relevant hereto, employed as a correctional officer at Evans Correctional Institution in Bennettsville, South Carolina and was acting individually and/or as an agent and/or employee in the course and scope of his/her official duty with the Defendant SCDC.

10. Upon information and belief, Defendant Correctional Officer Davis was and, at all times relevant hereto, employed as a correctional officer at Evans Correctional Institution in Bennettsville, South Carolina and was acting individually and/or as an agent and/or employee in the course and scope of his/her official duty with the Defendant SCDC.

11. Upon information and belief, Defendant Correctional Officer Gillespie was and, at all times relevant hereto, employed as a correctional officer at Evans Correctional Institution in Bennettsville, South Carolina and was acting individually and/or as an agent and/or employee in the course and scope of his/her official duty with the Defendant SCDC.

12. Upon information and belief, Defendant Correctional Officer Ocean was and, at all times relevant hereto, employed as a correctional officer at Evans Correctional Institution in Bennettsville, South Carolina and was acting individually and/or as an agent and/or employee in the course and scope of his/her official duty with the Defendant SCDC.

13. Upon information and belief, Defendant Major Charles West was and, at all times relevant hereto, employed as a correctional officer at Evans Correctional Institution in

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Bennettsville, South Carolina and was acting individually and/or as an agent and/or employee in the course and scope of his/her official duty with the Defendant SCDC.

**GENERAL FACTS**

14. Upon information and belief, Evans Correctional Institution has a long history of violence among inmates housed in the institution and many times the violence is encouraged and/or condoned by the Defendants as the perpetrators are not punished and many times the violent acts were done after notice and in many instances it appears that Defendants were complicit in the violent acts and/or knew said acts were going to occur and did nothing to prevent the acts.

15. Upon information and belief, there is a complete failure by the Defendant South Carolina Department of Corrections, Defendant Warden Eagleton, and the named Defendant Correctional Officers to keep weapons out of the hands of inmates housed at Evans Correctional Institution.

16. Upon information and belief, at Evans Correctional Institution, as well as at other institutions, the gangs are basically allowed to run free and commit whatever crimes they want within the institution without fear of punishment and no actions were taken to prevent the violent acts.

17. Upon information and belief, at Evans Correctional Institution, as well as at other institutions, many of the inmates who commit either institutional offenses and/or crimes punishable in the court system are not punished or charged with any offense.

18. Upon information and belief, in many instances, correctional officers who violate South Carolina Department of Corrections Policies and Procedures are not disciplined for the violation, and, furthermore, when their actions would constitute a criminal offense they are not charged.

19. Upon information and belief, Evans Correctional Institution and other SCDC institutions are severely understaffed due to the failure to hire sufficient officers and due to a large number of turnovers; therefore, Evans Correctional Institution frequently operates each day in violation of Defendant SCDC policies and procedures.

20. Upon information and belief, when injured, inmates at Evans Correctional Institution are either denied medical attention, given substandard medical treatment or the medical treatment is unreasonably delayed.

21. Upon information and belief, at Evans Correctional Institution, it is a common practice to allow inmates from more than one wing/unit or dorm to go to the cafeteria at the same time and/or to allow inmates from one wing onto another wing; this is a violation of the separation policy(ies) and procedures and permits inmates who are suppose to be kept apart to be together thereby facilitating fights and stabbings.

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22. That the Defendant SCDC, its wardens and correctional officers are either intentionally or through gross negligence complicit with the inmate assailants who prey on other inmates.

23. Evans Correctional Institution and its wardens and correctional officers' failure to comply with Defendant SCDC policies and procedures, thereby, allowing inmates to be attacked, beaten and stabbed and by failing to take any action to not only prevent the violence but by also failing to provide necessary, adequate and appropriate medical and mental health treatment to the inmates after the violent acts have occurred constitutes a violation of the Plaintiffs' rights in violation of the United States Constitution.

**FACTS**

**As to Defendants SCDC, Warden Cothran, Warden Eagleton and Correctional Officer McFadden**

**(Turbeville Correctional Institution/Evans Correctional Institution - First Occurrence)**

24. On or about June 30, 2016, Plaintiff was incarcerated at Turbeville Correctional Institution in Turbeville, South Carolina.

25. On or about the aforesaid date, Plaintiff's cell door was left unlocked by Defendant Correctional Officer McFadden who immediately abandoned his post and left the wing unattended which is a violation of the Defendant SCDC's policies and procedures.

26. Then almost immediately, approximately nine (9) inmates came into Plaintiff's room and Plaintiff was beaten and knocked to the floor where he was stabbed nine (9) times and then robbed.

27. Plaintiff was knocked unconscious for 15 to 20 minutes but when he came to he got up and staggered out of his room but could not find a correctional officer on the wing.

28. A couple of other inmates helped him get to the bathroom where they cleaned him up but he was still bleeding. When Defendant CO McFadden finally came back on the wing, one inmate told him that Plaintiff had been stabbed.

29. Defendant CO McFadden then took the Plaintiff to Associate Warden Dean who instructed him to take the Plaintiff to medical for treatment. The nurse looked at the Plaintiff and told the officers to take the Plaintiff to the hospital. After waiting approximately four (4) hours, Plaintiff was taken by van to Tuomey Hospital.

30. When Plaintiff returned to the institution, he was place in another dorm then transferred to Evans Correctional Institution a few days later.

31. One of the inmates who had beaten and stabbed the Plaintiff was housed on the same wing with Plaintiff at Evans Correctional and again threatened the Plaintiff.

32. Plaintiff immediately reported the threat to Defendant Warden Eagleton and also

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to various correctional officers but no action was taken to move the Plaintiff or the other inmate to another dorm or wing thereby violating Defendant SCDC's separation policies and procedures.

33. Plaintiff's injuries are a direct and proximate result of Defendant SCDC, Defendant Warden Cothran, Defendant Warden Eagleton and Defendant Correctional Officer McFadden's gross negligence in failing to follow SCDC's policies and procedures.

34. Plaintiff's injuries are a direct and proximate result of Defendant Warden Cothran, Defendant Warden Eagleton, and Defendant Correctional Officer McFadden's individual actions in violating the Plaintiff's constitutional rights pursuant to the United States Constitution.

**FACTS**

**As to Defendants SCDC, Warden Eagleton, and Correctional Officer Smith and Correctional Officer Davis**  
**(Evans Correctional Institution - Second Occurrence)**

35. On or about September 27, 2016, Plaintiff was in his room watching television when a disagreement came about with his roommate and the roommate pulled a knife on him.

36. Defendant Correctional Officer Smith was right there when the knife was pulled and he asked the Plaintiff's roommate, "what did he think he was doing" and moved the Plaintiff to a cell two doors down but did not confiscate the knife and wrote no incident report regarding the matter.

37. Later, the Plaintiff was approached by Lieutenant Martin and Plaintiff told him what had happened and signed a statement. Plaintiff also told Lieutenant Martin which correctional officer was bringing in drugs and cell phones to the inmates. Correctional Officer Whittington came and got Plaintiff's roommate and moved him off the wing and Plaintiff was moved back to his original room and given another roommate.

38. At some point during this incident, Defendant Associate Warden Sellers told Plaintiff that he should just grow up and take care of the problem himself.

39. Plaintiff was informed by his new roommate that there was a hit out on him and the next afternoon Plaintiff was attacked by three (3) inmates from the other wing and was struck with a lock-in-a-sock.

40. The lock used as a weapon against Plaintiff had been sold by Defendant SCDC in its canteen located at Evans Correctional Institution to inmates, and even though institutions quit selling the locks due to them being used as weapons, Defendant SCDC failed to take all the locks away from the inmates, leaving them to still be used as weapons.

41. Defendant Correctional Officer Davis violated Defendant SCDC's policies and procedures by allowing both doors between wings to be unlocked and should have immediately

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recognized that inmates from the other wing had come onto Plaintiff's wing and taken appropriate action to prevent or stop the attack on Plaintiff.

42. Plaintiff was taken to medical but he was not taken out to a doctor to be sewn up.

43. Plaintiff continued to have headaches and requested medical treatment because of the headaches but received no further medical treatment.

44. Plaintiff was placed back on the same dorm in the same room with the same roommate.

45. Plaintiff remained in fear of being attacked again and losing his life because he was placed back on the same dorm and the correctional officers were calling him a snitch.

46. Plaintiff's injuries are a direct and proximate result of Defendant SCDC, Defendant Warden Eagleton, Defendant Associate Warden Sellers, and Defendant Correctional Officer Davis' gross negligence in failing to follow SCDC's policies and procedures.

47. Plaintiff's injuries are a direct and proximate result of Defendant Warden Eagleton, Defendant Associate Warden Sellers, and Defendant Correctional Officer Davis' individual actions in violating the Plaintiff's constitutional rights pursuant to the United States Constitution.

**FACTS**

**As to Defendants SCDC, Warden Eagleton, and Correctional Officer Sgt. Parker (Evans Correctional Institution - Third Occurrence)**

48. On or about October 27, 2016, Plaintiff was housed at Evans Correctional Institution.

49. The institution had moved his roommate out and given him a different roommate.

50. Defendant Correctional Officer Sgt. Parker came by his room and unlocked his door.

51. Outside his door were a lot of other inmates, some from his wing and other from the wing who should not have been allowed on the wing but who had apparently been let onto the wing by Defendant Correctional Officer Sgt. Parker in violation of Defendant SCDC's policies and procedures.

52. Defendant Correctional Officer Sgt. Parker then went to the office where he remained.

53. Approximately five (5) of the inmates entered his room, held him down and beat him with a lock-in-a-sock and robbed him of his belongings.

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54. The lock used as a weapon against Plaintiff had been sold by Defendant SCDC in its canteen located at Evans Correctional Institution to inmates, and even though institutions quit selling the locks due to them being used as weapons, Defendant SCDC failed to take all the locks away from the inmates, leaving them to still be used as weapons.

55. Thereafter, the other inmates left and Plaintiff just stayed in his room until he went to medical about 10:00 that night when he was taken to medical where his head wound was treated.

56. Plaintiff was treated at the infirmary and not taken out for treatment; he was given ibuprofen for the pain.

57. Plaintiff returned to medical several times thereafter complaining of his jaw hurting and being unable to fully open his mouth but he received no further medical treatment for his injuries.

58. Plaintiff's injuries are a direct and proximate result of Defendant SCDC, Defendant Warden Eagleton, Defendant Associate Warden Sellers, and Defendant Correctional Officer Sgt. Parker's gross negligence in failing to follow SCDC's policies and procedures.

59. Plaintiff's injuries are a direct and proximate result of Defendant Warden Eagleton, Defendant Associate Warden Sellers, and Defendant Correctional Officer Sgt. Parker's individual actions in violating the Plaintiff's constitutional rights pursuant to the United States Constitution.

**FACTS**

**As to Defendants SCDC and Warden Eagleton**  
**(Evans Correctional Institution - Fourth Occurrence)**

60. On or about April 24, 2017, Plaintiff was in the telephone room in Kiawah Dorm, talking on the telephone when he was attacked by six (6) members of the Gs gang.

61. Plaintiff was beaten and kicked severely.

62. After the beating, Plaintiff went to the correctional officer who locked him in his room all day.

63. Plaintiff was finally able to go to medical but they refused to see him and told him to sign up for sick call which he was able to do four (4) days later.

64. When Plaintiff saw the doctor, the doctor told him that he was tired of his problems and that he was having him transferred.

65. Plaintiff was not transferred to another institution but the doctor still refused to

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treat him.

66. Plaintiff's injuries are a direct and proximate result of Defendant SCDC and Defendant Warden Eagleton's gross negligence in failing to follow SCDC's policies and procedures.

67. Plaintiff's injuries are a direct and proximate result of Defendant Warden Eagleton's individual actions in violating the Plaintiff's constitutional rights pursuant to the United States Constitution.

**FACTS**

**As to Defendants SCDC, Warden Eagleton and Correctional Officer Gillespie (Evans Correctional Institution - Fifth Occurrence)**

68. On or about June 2, 2017, Plaintiff was housed in Kiawah Dorm, B wing, room 134.

69. On the aforesaid date, Defendant Correctional Officer Gillespie came to his room and unlocked the door; Plaintiff asked her to lock his door back again but she did not.

70. Defendant Correctional Officer Gillespie then left the wing and abandoned her post in violation of Defendant SCDC's policies and procedures.

71. Shortly thereafter, five (5) inmates came into his room and pulled out homemade knives.

72. Plaintiff was punched in the face and stabbed multiple times and robbed him because he had just gone to the canteen the day before; Plaintiff was told that if he said anything they would kill him.

73. When the five (5) assailants left his room, the assailants told Defendant Correctional Officer Gillespie to lock Plaintiff's door back and she did.

74. Plaintiff gave his roommate a note to take to the yard officer who was Lieutenant Willard. The note asked him to have the unit manager CO Jackson to come to his room.

75. When CO Jackson came to his room, he told Defendant Correctional Officer Ocean who was on duty at the time not to open the Plaintiff's door but she did and others inmates returned to his room and robbed him of the rest of his belongings.

76. Approximately six to seven hours after Plaintiff was stabbed the unit manager came to his room and took pictures of his wounds and he was taken to medical where the nurse told him that it didn't look like he was stabbed to her but she gave him some band-aids and some ibuprofen.

77. Plaintiff remained housed in the same dorm and members of the Gs' gang come

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by his room and threaten him on a regular basis; many of those threatening him are from the other wing.

78. Plaintiff had filed multiple written reports and/or grievances stating that he was being beaten, robbed, and threatened and that he was being extorted by the G's gang but no one did anything to prevent these incidents from continuing to occur.

79. Plaintiff's injuries are a direct and proximate result of Defendant SCDC, Defendant Warden Eagleton, and Defendant Correctional Officer Gillespie, and Defendant Correctional Officer Ocean's gross negligence in failing to follow SCDC's policies and procedures.

80. Plaintiff's injuries are a direct and proximate result of Defendant Warden Eagleton, Defendant Correctional Officer Gillespie, and Defendant Correctional Officer Ocean's individual actions in violating the Plaintiff's constitutional rights pursuant to the United States Constitution.

**FACTS**

**As to Defendants SCDC, Warden Eagleton, and Major Charles West**  
**(Evans Correctional Institution — Sixth Occurrence)**

81. On or about August 16, 2017, Plaintiff was housed at Evans Correctional Institution.

82. Plaintiff was brought up to the conference room for an appointment with his attorney.

83. Shortly after Plaintiff and his attorney began their meeting, it was interrupted by Defendant Correctional Officer Major West who asked if his appointment could wait so that the attorney could consult with another client who had been bought from lock-up. Plaintiff agreed to wait in the holding cell.

84. While in the holding cell, Plaintiff asked one of the correctional officers if he could use the restroom and she opened the door so that he could go to the restroom.

85. When Plaintiff stepped out of the holding cell to go to the restroom, he was grabbed by Defendant Correctional Officer Major West who slammed him against the wall, hitting his head again the wall and then Defendant Correctional Officer Major West told him that he was going to search him.

86. Defendant Correctional Officer Major West then grabbed Plaintiff's arm and twisted it behind him and forced him around the corner into another hallway where he forcibly pulled Plaintiff's pants down, removed them and the shorts that Plaintiff was wearing under the pants.

87. Defendant Correctional Officer Major West commented to other

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correctional officers "don't let him get to the lawyers".

88. Defendant Correctional Officer Major West then forced the Plaintiff to walk up the hill to the holding cell in lock-up without his shoes and dressed in only his shirt and boxers.

89. Defendant Correctional Officer Major West took all the paperwork that Plaintiff had on him at the time of the search.

90. Plaintiff was then walked back from the lock-up holding cell by Defendant Correctional Officer Major West still barefooted and dressed only in his shirt and boxers and taken into an office where he was told to put his pants and shoes back on before he was taken to the conference room to consult with his attorney.

91. During the walk back across the yard from the lock-up holding cell, Plaintiff asked Defendant Correctional Officer Major West why he was treating him that way and if it was because of his lawsuit and Defendant Correctional Officer Major West told him that he needed to "stop playing" which Plaintiff understood to be a threat if he didn't stop his legal actions.

92. Plaintiff's injuries are a direct and proximate result of Defendant SCDC, Defendant Warden Eagleton, and Defendant Correctional Officer Major West's gross negligence in failing to follow SCDC's policies and procedures.

93. Plaintiff's injuries are a direct and proximate result of Defendant Warden Eagleton and Defendant Correctional Officer Major West's individual actions in violating the Plaintiff's constitutional rights pursuant to the United States Constitution.

**FOR A FIRST CAUSE OF ACTION**

(For temporary and permanent injunctive relief pursuant Section 15-43-30 of the South Carolina Code of Laws Ann., 1976, as amended, Rule 65(b) of the South Carolina Rules of Civil Procedure, and 42 U.S.C. Section 1983)

94. Plaintiff reiterates all the allegations contained herein as fully as if repeated herein verbatim.

95. Plaintiff seeks appropriate declaratory and injunctive relief pursuant to Section 15-43-30 of the South Carolina Code of Laws Ann., 1976, as amended, Rule 65(b) of the South Carolina Rules of Civil Procedure, and 42 U.S.C. Section 1983 to redress the Defendants' above described ongoing deliberate indifference, reckless, malicious, wanton and grossly negligence in policies, practices, habits, customs, usages, training and supervision with respect to the rights of the Plaintiff herein to be secure in his person, to be properly protected, to receive humane treatment, to be provided necessary and appropriate medical care, to be protected from cruel and unusual punishment, and to be have his life protected from unprovoked attacks and threats, among other rights of the Plaintiff.

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96. Injunctive relief is necessary due to the nature of the threats against the Plaintiff herein shown in that Plaintiff will suffer irreparable harm if such injunction is not granted in that, as has previously occurred, he is at risk to be attacked and injured and possibly killed. The multitude of incidents of violence against the Plaintiff as recited herein is a clear and definite indication that without Court intervention by way of injunctive relief the likelihood of repeated incidents will occur and monetary compensation cannot replace the loss of life.

97. Plaintiff believes that due to the ongoing policies and practices of the Defendants in failing to protect the Plaintiff, which policies, procedures, habits, customs, usage, training and supervisor Defendants have no intention of voluntarily correcting despite the obvious need and requests for such correction, that immediate injunctive relief is necessary and appropriate.

**FOR A SECOND CAUSE OF ACTION**

**(Violation of Civil Rights and 42 USC Section 1983; General Allegations against Defendant Warden Cothran, Defendant Warden Eagleton and Defendant Correctional Officer McFadden – First Occurrence)**

98. Plaintiff reiterates all the allegations contained herein as fully as if repeated herein verbatim.

99. Defendants herein acted in a grossly negligent, reckless, willful, wanton and with a deliberate indifference to the right of the Plaintiff in the following particulars:

- a. In allowing uncontrolled violence in the correctional institution;
- b. In failing to provide protection and security for the Plaintiff;
- c. In failing to properly train officers to respond to attacks such as occurred to the Plaintiff;
- d. In failing to have a sufficient number of trained correctional officers to adequately respond to incidents such as what occurred to Plaintiff;
- e. In employing employees who were contributory to the violence in the prison;
- f. In failing to comply with SCDC policies and procedures regarding correctional officers remaining on their assigned wings until relieved by another correctional officer, and by allowing the said violation to occur without taking corrective action and without punishment to any correctional officer who violates the same;
- g. In allowing inmate to have dangerous weapons;
- h. In failing to conduct sufficient and appropriate inspections of the dorms to prevent inmates from obtaining weapons;
- i. In violating the separation policy by housing the inmates who have had prior

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problems in the same institutions and/or dorms and/or wings;

- j. In violating the classification policy by placing the inmates who are not properly classified in the same room (cell), dorm or wing;
- k. In failing to provide necessary, appropriate and proper medical and mental health care to the inmates;
- l. In failing to punish and correct instances of weapons possession after an inmate is apprehended with or uses a weapon;
- m. In failing to discipline its correctional officers for violations of SCDC policies and procedures;
- n. In negligently supervising its employees by failing to provide proper training in investigating, searching for and preventing inmates from obtaining and possessing dangerous weapons:
- o. In committing acts and/or omissions where Defendants knew or should have known that such acts and/or omissions would allow or facilitate inmate on inmate attacks, beatings, stabbings and robbery of other inmates;
- p. In failing to properly investigate the complicity of correctional officers and/or their participation in a culture that allows certain individuals (inmates) to be targeted and harmed;
- q. In allowing, without punishment, violent acts to occur in the correctional institution thereby creating a culture of violence;
- r. In allowing, after notification, robberies, beatings, stabbings, possession of contraband weapons, and other violations to occur by "turning a blind eye" to such violations and failing to take corrective actions to prevent such violations;
- s. In preparing weekly, monthly, quarterly, and/or yearly reports which detail incidents of violence, such as, but not limited to, robberies, beatings, stabbings, possession of contraband weapons, and other such violations, which show the need for corrective actions and not taking the appropriate corrective actions;
- t. In failing to prosecute all violations of the law in reference to the treatment of convicts as mandated by South Carolina law;
- u. In such other particulars as the evidence at trial will show.

100. In committing the acts and omissions herein, Defendant Warden Cothran, Defendant Warden Eagleton, and Defendant Correctional Officer McFadden acted under color of state law to deprive Plaintiff of certain constitutionally protected rights under the Fifth, Seventh,

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Eighth, and Fourteenth Amendments to the Constitution of the United States and the Constitution of the State of South Carolina, including, but not limited to: 1) due process of law, 2) right to a trial by jury of a civil action, and 3) the right to be free from cruel and unusual punishment.

101. In violating Plaintiff's rights as set forth above and other rights, Defendants caused Plaintiff to suffer actual and consequential damages as alleged in this Complaint and Plaintiff is entitled to relief under 42 U.S.C. Section 1983 for ACTUAL, CONSEQUENTIAL and PUNITIVE damages.

**FOR A THIRD CAUSE OF ACTION**

**(Violation of Civil Rights and 42 USC Section 1983; General Allegations against Defendant Warden Eagleton, Defendant Correctional Officer Smith and Defendant Correctional Officer Davis – Second Occurrence)**

102. Plaintiff reiterates all the allegations contained herein as fully as if repeated herein verbatim.

103. Defendants herein acted in a grossly negligent, reckless, willful, wanton and with a deliberate indifference to the right of the Plaintiff in the following particulars:

- a. In allowing uncontrolled violence in the correctional institution;
- b. In failing to provide protection and security for the Plaintiff;
- c. In failing to properly train officers to respond to attacks such as occurred to the Plaintiff;
- d. In failing to have a sufficient number of trained correctional officers to adequately respond to incidents such as what occurred to Plaintiff;
- e. In employing employees who were contributory to the violence in the prison;
- f. In failing to comply with SCDC policies and procedures regarding correctional officers remaining on their assigned wings until relieved by another correctional officer, and by allowing the said violation to occur without taking corrective action and without punishment to any correctional officer who violates the same;
- g. In allowing inmates to have dangerous weapons;
- h. In failing to conduct sufficient and appropriate inspections of the dorms to prevent inmates from obtaining weapons;
- i. In violating the separation policy by housing the inmates who have had prior problems in the same institutions and/or dorms and/or wings;
- j. In violating the classification policy by placing the inmates who are not properly

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classified in the same room (cell), dorm or wing;

- k. In failing to provide necessary, appropriate and proper medical and mental health care to the inmates;
- l. In failing to punish and correct instances of weapons possession after an inmate is apprehended with or uses a weapon;
- m. In failing to discipline its correctional officers for violations of SCDC policies and procedures;
- n. In negligently supervising its employees by failing to provide proper training in investigating, searching for and preventing inmates from obtaining and possessing dangerous weapons;
- o. In committing acts and/or omissions where Defendants knew or should have known that such acts and/or omissions would allow or facilitate inmate on inmate attacks, beatings, stabbings and robbery of other inmates;
- p. In failing to properly investigate the complicity of correctional officers and/or their participation in a culture that allows certain individuals (inmates) to be targeted and harmed;
- q. In allowing, without punishment, violent acts to occur in the correctional institution thereby creating a culture of violence;
- r. In allowing, after notification, robberies, beatings, stabbings, possession of contraband weapons, and other violations to occur by "turning a blind eye" to such violations and failing to take corrective actions to prevent such violations;
- s. In preparing weekly, monthly, quarterly, and/or yearly reports which detail incidents of violence, such as, but not limited to, robberies, beatings, stabbings, possession of contraband weapons, and other such violations, which show the need for corrective actions and not taking the appropriate corrective actions;
- t. In failing to prosecute all violations of the law in reference to the treatment of convicts as mandated by South Carolina law;
- u. In such other particulars as the evidence at trial will show.

104. In committing the acts and omissions herein, Defendant Warden Eagleoff and any named Defendant correctional officers acted under color of state law to deprive Plaintiff of certain constitutionally protected rights under the Fifth, Seventh, Eighth, and Fourteenth Amendments to the Constitution of the United States and the Constitution of the State of South Carolina, including, but not limited to: 1) due process of law, 2) right to jury trial in a civil action, and 3) the right to be free from cruel and unusual punishment.

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105. In violating Plaintiff's rights as set forth above and other rights, Defendants caused Plaintiff to suffer actual and consequential damages as alleged in this Complaint and Plaintiff is entitled to relief under 42 U.S.C. Section 1983 for **ACTUAL, CONSEQUENTIAL, and PUNITIVE** damages.

**FOR A FOURTH CAUSE OF ACTION**

**(Violation of Civil Rights and 42 USC Section 1983; General Allegations against Defendant SCDC, Defendant Warden Eagleton, Defendant Correctional Officer Smith and Defendant Correctional Officer Sgt. Parker – Third Occurrence)**

106. Plaintiff reiterates all the allegations contained herein as fully as if repeated herein verbatim.

107. Defendants herein acted in a grossly negligent, reckless, willful, wanton and with a deliberate indifference to the right of the Plaintiff in the following particulars:

- a. In allowing uncontrolled violence in the correctional institution;
- b. In failing to provide protection and security for the Plaintiff;
- c. In failing to properly train officers to respond to attacks such as occurred to the Plaintiff;
- d. In failing to have a sufficient number of trained correctional officers to adequately respond to incidents such as what occurred to Plaintiff;
- e. In employing employees who were contributory to the violence in the prison;
- f. In failing to comply with SCDC policies and procedures regarding correctional officers remaining on their assigned wings until relieved by another correctional officer, and by allowing the said violation to occur without taking corrective action and without punishment to any correctional officer who violates the same;
- g. In allowing inmate to have dangerous weapons;
- h. In failing to conduct sufficient and appropriate inspections of the dorms to prevent inmates from obtaining weapons;
- i. In violating the separation policy by housing the inmates who have had prior problems in the same institutions and/or dorms and/or wings;
- j. In violating the classification policy by placing the inmates who are not properly classified in the same room (cell), dorm or wing;
- k. In failing to provide necessary, appropriate and proper medical and mental health

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care to the inmates;

- l. In failing to punish and correct instances of weapons possession after an inmate is apprehended with or uses a weapon;
- m. In failing to discipline its correctional officers for violations of SCDC policies and procedures;
- n. In negligently supervising its employees by failing to provide proper training in investigating, searching for and preventing inmates from obtaining and possessing dangerous weapons;
- o. In committing acts and/or omissions where Defendants knew or should have known that such acts and/or omissions would allow or facilitate inmate on inmate attacks, beatings, stabbings and robbery of other inmates;
- p. In failing to properly investigate the complicity of correctional officers and/or their participation in a culture that allows certain individuals (inmates) to be targeted and harmed;
- q. In allowing, without punishment, violent acts to occur in the correctional institution thereby creating a culture of violence;
- r. In allowing, after notification, robberies, beatings, stabbings, possession of contraband weapons, and other violations to occur by "turning a blind eye" to such violations and failing to take corrective actions to prevent such violations;
- s. In preparing weekly, monthly, quarterly, and/or yearly reports which detail incidents of violence, such as, but not limited to, robberies, beatings, stabbings, possession of contraband weapons, and other such violations, which show the need for corrective actions and not taking the appropriate corrective actions;
- t. In failing to prosecute all violations of the law in reference to the treatment of convicts as mandated by South Carolina law;
- u. In such other particulars as the evidence at trial will show.

108. In committing the acts and omissions herein, Defendant SCDC Defendant Warden Eagleton, Defendant Correctional Officer Smith, and Defendant Correctional Officer Sgt. Parker acted under color of state law to deprive Plaintiff of certain constitutionally protected rights under the Fifth, Seventh, Eighth, and Fourteenth Amendments to the Constitution of the United States and the Constitution of the State of South Carolina, including, but not limited to: 1) due process of law and 2) the right to be free from cruel and unusual punishment.

109. In violating Plaintiff's rights as set forth above and other rights, Defendants caused Plaintiff to suffer actual and consequential damages as alleged in this Complaint and

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Plaintiff is entitled to relief under 42 U.S.C. Section 1983 for **ACTUAL, CONSEQUENTIAL, and PUNITIVE** damages.

**FOR A FIFTH CAUSE OF ACTION**

**(Violation of Civil Rights and 42 USC Section 1983; General Allegations against Defendant Warden Eagleton – Fourth Occurrence)**

110. Plaintiff reiterates all the allegations contained herein as fully as if repeated herein verbatim.

111. Defendants herein acted in a grossly negligent, reckless, willful, wanton and with a deliberate indifference to the right of the Plaintiff in the following particulars:

- a. In allowing uncontrolled violence in the correctional institution;
- b. In failing to provide protection and security for the Plaintiff;
- c. In failing to properly train officers to respond to attacks such as occurred to the Plaintiff;
- d. In failing to have a sufficient number of trained correctional officers to adequately respond to incidents such as what occurred to Plaintiff;
- e. In employing employees who were contributory to the violence in the prison;
- f. In failing to comply with SCDC policies and procedures regarding correctional officers remaining on their assigned wings until relieved by another correctional officer, and by allowing the said violation to occur without taking corrective action and without punishment to any correctional officer who violates the same;
- g. In allowing inmate to have dangerous weapons;
- h. In failing to conduct sufficient and appropriate inspections of the dorms to prevent inmates from obtaining weapons;
- i. In violating the separation policy by housing the inmates who have had prior problems in the same institutions and/or dorms and/or wings;
- j. In violating the classification policy by placing the inmates who are not properly classified in the same room (cell), dorm or wing;
- k. In failing to provide necessary, appropriate and proper medical and mental health care to the inmates;
- l. In failing to punish and correct instances of weapons possession after an inmate is apprehended with or uses a weapon;

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- m. In failing to discipline its correctional officers for violations of SCDC policies and procedures;
- n. In negligently supervising its employees by failing to provide proper training in investigating, searching for and preventing inmates from obtaining and possessing dangerous weapons;
- o. In committing acts and/or omissions where Defendants knew or should have known that such acts and/or omissions would allow or facilitate inmate on inmate attacks, beatings, stabbings and robbery of other inmates;
- p. In failing to properly investigate the complicity of correctional officers and/or their participation in a culture that allows certain individuals (inmates) to be targeted and harmed;
- q. In allowing, without punishment, violent acts to occur in the correctional institution thereby creating a culture of violence;
- r. In allowing, after notification, robberies, beatings, stabbings, possession of contraband weapons, and other violations to occur by "turning a blind eye" to such violations and failing to take corrective actions to prevent such violations;
- s. In preparing weekly, monthly, quarterly, and/or yearly reports which detail incidents of violence, such as, but not limited to, robberies, beatings, stabbings, possession of contraband weapons, and other such violations, which show the need for corrective actions and not taking the appropriate corrective actions;
- t. In failing to prosecute all violations of the law in reference to the treatment of convicts as mandated by South Carolina law;
- u. In such other particulars as the evidence at trial will show.

112. In committing the acts and omissions herein, Defendant Warden Eagleton acted under color of state law to deprive Plaintiff of certain constitutionally protected rights under the Fifth, Seventh, Eighth, and Fourteenth Amendments to the Constitution of the United States and the Constitution of the State of South Carolina, including, but not limited to: 1) due process of law, 2) right to a trial by jury of a civil action, and 3) the right to be free from cruel and unusual punishment.

113. In violating Plaintiff's rights as set forth above and other rights, Defendants caused Plaintiff to suffer actual and consequential damages as alleged in this Complaint and Plaintiff is entitled to relief under 42 U.S.C. Section 1983 for **ACTUAL, CONSEQUENTIAL, and PUNITIVE** damages.

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**FOR A SIXTH CAUSE OF ACTION**

**(Violation of Civil Rights and 42 USC Section 1983; General Allegations against Defendant Warden Eagleton, Defendant Correctional Officer Gillespie and Defendant Correctional Officer Ocean – Fifth Occurrence)**

114. Plaintiff reiterates all the allegations contained herein as fully as if repeated herein verbatim.

115. Defendants herein acted in a grossly negligent, reckless, willful, wanton and with a deliberate indifference to the right of the Plaintiff in the following particulars:

- a. In allowing uncontrolled violence in the correctional institution;
- b. In failing to provide protection and security for the Plaintiff;
- c. In failing to properly train officers to respond to attacks such as occurred to the Plaintiff;
- d. In failing to have a sufficient number of trained correctional officers to adequately respond to incidents such as what occurred to Plaintiff;
- e. In employing employees who were contributory to the violence in the prison;
- f. In failing to comply with SCDC policies and procedures regarding correctional officers remaining on their assigned wings until relieved by another correctional officer, and by allowing the said violation to occur without taking corrective action and without punishment to any correctional officer who violates the same;
- g. In allowing inmate to have dangerous weapons;
- h. In failing to conduct sufficient and appropriate inspections of the dorms to prevent inmates from obtaining weapons;
- i. In violating the separation policy by housing the inmates who have had prior problems in the same institutions and/or dorms and/or wings;
- j. In violating the classification policy by placing the inmates who are not properly classified in the same room (cell), dorm or wing;
- k. In failing to provide necessary, appropriate and proper medical and mental health care to the inmates;
- l. In failing to punish and correct instances of weapons possession after an inmate is apprehended with or uses a weapon;
- m. In failing to discipline its correctional officers for violations of SCDC policies and

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procedures;

- n. In negligently supervising its employees by failing to provide proper training in investigating, searching for and preventing inmates from obtaining and possessing dangerous weapons;
- o. In committing acts and/or omissions where Defendants knew or should have known that such acts and/or omissions would allow or facilitate inmate on inmate attacks, beatings, stabbings and robbery of other inmates;
- p. In failing to properly investigate the complicity of correctional officers and/or their participation in a culture that allows certain individuals (inmates) to be targeted and harmed;
- q. In allowing, without punishment, violent acts to occur in the correctional institution thereby creating a culture of violence;
- r. In allowing, after notification, robberies, beatings, stabbings, possession of contraband weapons, and other violations to occur by "turning a blind eye" to such violations and failing to take corrective actions to prevent such violations;
- s. In preparing weekly, monthly, quarterly, and/or yearly reports which detail incidents of violence, such as, but not limited to, robberies, beatings, stabbings, possession of contraband weapons, and other such violations, which show the need for corrective actions and not taking the appropriate corrective actions;
- t. In failing to prosecute all violations of the law in reference to the treatment of convicts as mandated by South Carolina law;
- u. In such other particulars as the evidence at trial will show.

116. In committing the acts and omissions herein, Defendant Warden Eagleton, Defendant Correctional Officer Gillespie, and Defendant Correctional Officer Ocean acted under color of state law to deprive Plaintiff of certain constitutionally protected rights under the Fifth, Seventh, Eighth, and Fourteenth Amendments to the Constitution of the United States and the Constitution of the State of South Carolina, including, but not limited to: 1) due process of law, 2) right to a trial by jury of a civil action, and 3) the right to be free from cruel and unusual punishment.

117. In violating Plaintiff's rights as set forth above and other rights, Defendants caused Plaintiff to suffer actual and consequential damages as alleged in this Complaint and Plaintiff is entitled to relief under 42 U.S.C. Section 1983 for **ACTUAL, CONSEQUENTIAL, and PUNITIVE** damages.

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**FOR A SEVENTH CAUSE OF ACTION**

**(Violation of Civil Rights and 42 USC Section 1983; Failure to Implement Appropriate Policies, Customs, and Practices against Defendant Warden Eagleton)**

118. Plaintiff reiterates all the allegations contained herein as fully as if repeated herein verbatim.

119. Defendant Warden Eagleton as warden of Evans Correctional Institution implicitly or explicitly adopted and implemented careless and reckless policies, customs, or practices, including, among other things, of failing to prevent inmates from obtaining and possessing dangerous weapons.

120. The failure of Defendant Eagleton to adequately train and supervise his employees amounts to a deliberate indifference to the rights of Plaintiff to be free from the threat to his life under the Amendments to the Constitution of the United States.

121. In committing the acts complained of herein, Defendant Eagleton acted under color of state law to deprive the Plaintiff of certain constitutionally protected rights.

122. In violating Plaintiff's rights as set forth above and other rights, Defendant Eagleton caused Plaintiff to suffer actual and consequential damages as alleged in this Complaint and Plaintiff is entitled to relief under 42 U.S.C. Section 1983 for ACTUAL, CONSEQUENTIAL, and PUNITIVE damages.

**FOR A EIGHTH CAUSE OF ACTION**

**(42 U.S.C. Section 1983 – Excessive Force in Violation of the Fourth, Fifth, Seventh and Fourteenth Amendments to the United States Constitution – as to Defendant Correctional Officer Major Charles West – Sixth Occurrence)**

123. Plaintiff reiterates each and every allegation contained herein as fully of if repeated herein verbatim.

124. Defendant Correctional Officer Major Charles West, at all times relevant hereto was acting under the color of state law individually and in his capacity as a correctional officer with the South Carolina Department of Corrections and his acts and omissions were conducted within the scope of his official duties or employment.

125. At the time of the complained of events, Plaintiff had the clearly established Constitutional rights under the Fourth, Fifth, Seventh, and Fourteenth Amendments to the United States Constitution to be free from unreasonable search and seizures, to be free from excessive force by law enforcement, and to have his grievances heard by a jury in a civil action against his tortfeasors.

126. The rights to be free from unreasonable search and seizures, to be free from excessive force by law enforcement, and to have his grievances heard by a jury in a civil action against his tortfeasors was known or should have been known to the Defendant Correctional

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Officer Major West at the time of the incident.

127. Defendant Correctional Officer Major West's actions and use of force was unreasonable in light of the facts and circumstances at the time, and his actions were malicious and/or involved reckless, callous and deliberate indifference to the Plaintiff's federally protected rights and were intended to intimidate and threaten the Plaintiff from exercising his constitutional rights under the Seventh Amendment.

128. Defendant Correctional Officer Major West is not entitled to qualified immunity for the complained of conduct.

129. As a proximate result of the Defendant's unlawful conduct, Plaintiff has suffered and continues to suffer physical and emotional injuries and other damages in amounts to be determined at trial.

130. Plaintiff is entitled to relief under 42 U.S.C. Section 1983 for **ACTUAL, CONSEQUENTIAL, and PUNITIVE** damages.

131. In addition to compensatory, consequential and special damages, Plaintiff is entitled to attorney fees and costs pursuant to 42 U.S. C. Section 1988 and also punitive damages against Defendant Correctional Officer Major West under 42 U.S.C. Section 1983, in that the actions of the said Defendant were malicious, willful or with a reckless and wanton disregard and deliberate indifference to the Plaintiff's constitutional rights.

**FOR AN NINTH CAUSE OF ACTION**

**(Violation of Tort Claims Act of South Carolina, S.C Code Section 15-78-10 et. seq.;  
General Allegations against Defendant SCDC – as to the First Occurrence)**

132. Plaintiff reiterates all the allegations contained herein as fully as if repeated herein verbatim.

133. Defendant SCDC is liable for the acts of its employees, as they were acting within the course and scope of their official duties pursuant to South Carolina Code Ann. Section 15-78-10, et. seq. Defendants SCDC, Warden Cothran, Defendant Warden Eagleton, and other employees acted in a negligent, grossly negligent, reckless, willful and wanton manner in causing injury to the Plaintiffs in the following particulars:

- a. In allowing uncontrolled violence in the correctional institution;
- b. In failing to provide protection and security for the Plaintiff;
- c. In failing to properly train officers to respond to attacks such as occurred to the Plaintiff;
- d. In falling to have a sufficient number of trained correctional officers to adequately respond to incidents such as what occurred to Plaintiff;

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- e. In employing employees who were contributory to the violence in the prison;
- f. In failing to comply with SCDC policies and procedures regarding correctional officers remaining on their assigned wings until relieved by another correctional officer, and by allowing the said violation to occur without taking corrective action and without punishment to any correctional officer who violates the same;
- g. In allowing inmate to have dangerous weapons;
- h. In failing to conduct sufficient and appropriate inspections of the dorms to prevent inmates from obtaining weapons;
- i. In violating the separation policy by housing the inmates who have had prior problems in the same institutions and/or dorms and/or wings;
- j. In violating the classification policy by placing the inmates who are not properly classified in the same room (cell), dorm or wing;
- k. In failing to provide necessary, appropriate and proper medical and mental health care to the inmates;
- l. In failing to punish and correct instances of weapons possession after an inmate is apprehended with or uses a weapon;
- m. In failing to discipline its correctional officers for violations of SCDC policies and procedures;
- n. In negligently supervising its employees by failing to provide proper training in investigating, searching for and preventing inmates from obtaining and possessing dangerous weapons;
- o. In committing acts and/or omissions where Defendants knew or should have known that such acts and/or omissions would allow or facilitate inmate on inmate attacks, beatings, stabbings and robbery of other inmates;
- p. In failing to properly investigate the complicity of correctional officers and/or their participation in a culture that allows certain individuals (inmates) to be targeted and harmed;
- q. In allowing, without punishment, violent acts to occur in the correctional institution thereby creating a culture of violence;
- r. In allowing, after notification, robberies, beatings, stabbings, possession of contraband weapons, and other violations to occur by "turning a blind eye" to such violations and failing to take corrective actions to prevent such violations;

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- s. In preparing weekly, monthly, quarterly, and/or yearly reports which detail incidents of violence, such as, but not limited to, robberies, beatings, stabbings, possession of contraband weapons, and other such violations, which show the need for corrective actions and not taking the appropriate corrective actions;
- t. In failing to prosecute all violations of the law in reference to the treatment of convicts as mandated by South Carolina law;
- u. In such other particulars as the evidence at trial will show.

134. As a direct and proximate result of the grossly negligent and reckless acts of the Defendants, Plaintiff was injured and damaged and is entitled to ACTUAL and CONSEQUENTIAL damages.

**FOR A TENTH CAUSE OF ACTION**

**(Violation of Tort Claims Act of South Carolina, S.C Code Section 15-78-10 et. seq.;  
General Allegations against Defendant SCDC – as to the Second Occurrence)**

135. Plaintiff reiterates all the allegations contained herein as fully as if repeated herein verbatim.

136. Defendant SCDC is liable for the acts of its employees, as they were acting within the course and scope of their official duties pursuant to South Carolina Code Ann. Section 15-78-10, et. seq. Defendants SCDC, Warden Eagleton, Associate Warden Sellers, and other employees acted in a negligent, grossly negligent, reckless, willful and wanton manner in causing injury to the Plaintiffs in the following particulars:

- a. In allowing uncontrolled violence in the correctional institution;
- b. In failing to provide protection and security for the Plaintiff;
- c. In failing to properly train officers in the proper handling of inmates;
- d. In failing to have a sufficient number of trained correctional officers;
- e. In employing employees who are contributory to the violence in the prison;
- f. In failing to comply with SCDC policies and procedures regarding the excessive use of force by correctional officers and by allowing the said violation to occur without taking corrective action and without punishment to any correctional officer who violates the same;
- g. In failing to discipline its correctional officers for violations of SCDC policies and procedures;

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- h. In negligently supervising its employees by failing to provide proper training in the proper use of excessive force;
- i. In committing acts and/or omissions where Defendants knew or should have known that such acts and/or omissions would allow or facilitate the improper use of force by its correctional officers;
- j. In failing to properly investigate the improper use of excessive force by correctional officers;
- k. In preparing weekly, monthly, quarterly, and/or yearly reports which detail incidents of the use of force, which show the need for corrective actions and not taking the appropriate corrective actions;
- l. In failing to prosecute all violations of the law in reference to the treatment of convicts as mandated by South Carolina law;
- m. In such other particulars as the evidence at trial will show.

137. As a direct and proximate result of the grossly negligent and reckless acts of the Defendants, Plaintiff was injured and damaged and is entitled to **ACTUAL** and **CONSEQUENTIAL** damages.

**FOR AN ELEVENTH CAUSE OF ACTION**  
**(Violation of Tort Claims Act of South Carolina, S.C Code Section 15-78-10 et. seq.;**  
**General Allegations against Defendant SCDC – as to the Third Occurrence)**

138. Plaintiff reiterates all the allegations contained herein as fully as if repeated herein verbatim.

139. Defendant SCDC is liable for the acts of its employees, as they were acting within the course and scope of their official duties pursuant to South Carolina Code Ann. Section 15-78-10, et. seq. Defendants SCDC, Warden Eagleton, Associate Warden Sellers, and other employees acted in a negligent, grossly negligent, reckless, willful and wanton manner in causing injury to the Plaintiffs in the following particulars:

- a. In allowing uncontrolled violence in the correctional institution;
- b. In failing to provide protection and security for the Plaintiff;
- c. In failing to properly train officers to respond to attacks such as occurred to the Plaintiff;
- d. In falling to have a sufficient number of trained correctional officers to adequately respond to incidents such as what occurred to Plaintiff;

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- e. In employing employees who were contributory to the violence in the prison;
- f. In failing to comply with SCDC policies and procedures regarding correctional officers remaining on their assigned wings until relieved by another correctional officer, and by allowing the said violation to occur without taking corrective action and without punishment to any correctional officer who violates the same;
- g. In allowing inmate to have dangerous weapons;
- h. In failing to conduct sufficient and appropriate inspections of the dorms to prevent inmates from obtaining weapons;
- i. In violating the separation policy by housing the inmates who have had prior problems in the same institutions and/or dorms and/or wings;
- j. In violating the classification policy by placing the inmates who are not properly classified in the same room (cell), dorm or wing;
- k. In failing to provide necessary, appropriate and proper medical and mental health care to the inmates;
- l. In failing to punish and correct instances of weapons possession after an inmate is apprehended with or uses a weapon;
- m. In failing to discipline its correctional officers for violations of SCDC policies and procedures;
- n. In negligently supervising its employees by failing to provide proper training in investigating, searching for and preventing inmates from obtaining and possessing dangerous weapons;
- o. In committing acts and/or omissions where Defendants knew or should have known that such acts and/or omissions would allow or facilitate inmate on inmate attacks, beatings, stabbings and robbery of other inmates;
- p. In failing to properly investigate the complicity of correctional officers and/or their participation in a culture that allows certain individuals (inmates) to be targeted and harmed;
- q. In allowing, without punishment, violent acts to occur in the correctional institution thereby creating a culture of violence;
- r. In allowing, after notification, robberies, beatings, stabbings, possession of contraband weapons, and other violations to occur by "turning a blind eye" to such violations and failing to take corrective actions to prevent such violations;

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- h. In failing to conduct sufficient and appropriate inspections of the dorms to prevent inmates from obtaining weapons;
- i. In violating the separation policy by housing the inmates who have had prior problems in the same institutions and/or dorms and/or wings;
- j. In violating the classification policy by placing the inmates who are not properly classified in the same room (cell), dorm or wing;
- k. In failing to provide necessary, appropriate and proper medical and mental health care to the inmates;
- l. In failing to punish and correct instances of weapons possession after an inmate is apprehended with or uses a weapon;
- m. In failing to discipline its correctional officers for violations of SCDC policies and procedures;
- n. In negligently supervising its employees by failing to provide proper training in investigating, searching for and preventing inmates from obtaining and possessing dangerous weapons;
- o. In committing acts and/or omissions where Defendants knew or should have known that such acts and/or omissions would allow or facilitate inmate on inmate attacks, beatings, stabbings and robbery of other inmates;
- p. In failing to properly investigate the complicity of correctional officers and/or their participation in a culture that allows certain individuals (inmates) to be targeted and harmed;
- q. In allowing, without punishment, violent acts to occur in the correctional institution thereby creating a culture of violence;
- r. In allowing, after notification, robberies, beatings, stabbings, possession of contraband weapons, and other violations to occur by "turning a blind eye" to such violations and failing to take corrective actions to prevent such violations;
- s. In preparing weekly, monthly, quarterly, and/or yearly reports which detail incidents of violence, such as, but not limited to, robberies, beatings, stabbings, possession of contraband weapons, and other such violations which show the need for corrective actions and not taking the appropriate corrective actions;
- t. In failing to prosecute all violations of the law in reference to the treatment of convicts as mandated by South Carolina law;
- u. In such other particulars as the evidence at trial will show.

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143. As a direct and proximate result of the grossly negligent and reckless acts of the Defendants, Plaintiff was injured and damaged and is entitled to ACTUAL and CONSEQUENTIAL damages.

**FOR A THIRTEENTH CAUSE OF ACTION**

**(Violation of Tort Claims Act of South Carolina, S.C Code Section 15-78-10 et. seq.;  
General Allegations against Defendant SCDC – as to the Fifth Occurrence)**

144. Plaintiff reiterates all the allegations contained herein as fully as if repeated herein verbatim.

145. Defendant SCDC is liable for the acts of its employees, as they were acting within the course and scope of their official duties pursuant to South Carolina Code Ann. Section 15-78-10, et. seq. Defendants SCDC, Warden Eagleton, Associate Warden Sellers, and other employees acted in a negligent, grossly negligent, reckless, willful and wanton manner in causing injury to the Plaintiffs in the following particulars:

- a. In allowing uncontrolled violence in the correctional institution;
- b. In failing to provide protection and security for the Plaintiff;
- c. In failing to properly train officers to respond to attacks such as occurred to the Plaintiff;
- d. In failing to have a sufficient number of trained correctional officers to adequately respond to incidents such as what occurred to Plaintiff;
- e. In employing employees who were contributory to the violence in the prison;
- f. In failing to comply with SCDC policies and procedures regarding correctional officers remaining on their assigned wings until relieved by another correctional officer, and by allowing the said violation to occur without taking corrective action and without punishment to any correctional officer who violates the same;
- g. In allowing inmate to have dangerous weapons;
- h. In failing to conduct sufficient and appropriate inspections of the dorms to prevent inmates from obtaining weapons;
- i. In violating the separation policy by housing the inmates who have had prior problems in the same institutions and/or dorms and/or wings;
- j. In violating the classification policy by placing the inmates who are not properly classified in the same room (cell), dorm or wing;

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- k. In failing to provide necessary, appropriate and proper medical and mental health care to the inmates;
- l. In failing to punish and correct instances of weapons possession after an inmate is apprehended with or uses a weapon;
- m. In failing to discipline its correctional officers for violations of SCDC policies and procedures;
- n. In negligently supervising its employees by failing to provide proper training in investigating, searching for and preventing inmates from obtaining and possessing dangerous weapons;
- o. In committing acts and/or omissions where Defendants knew or should have known that such acts and/or omissions would allow or facilitate inmate on inmate attacks, beatings, stabbings and robbery of other inmates;
- p. In failing to properly investigate the complicity of correctional officers and/or their participation in a culture that allows certain individuals (inmates) to be targeted and harmed;
- q. In allowing, without punishment, violent acts to occur in the correctional institution thereby creating a culture of violence;
- r. In allowing, after notification, robberies, beatings, stabbings, possession of contraband weapons, and other violations to occur by "turning a blind eye" to such violations and failing to take corrective actions to prevent such violations;
- s. In preparing weekly, monthly, quarterly, and/or yearly reports which detail incidents of violence, such as, but not limited to, robberies, beatings, stabbings, possession of contraband weapons, and other such violations, which show the need for corrective actions and not taking the appropriate corrective actions;
- t. In failing to prosecute all violations of the law in reference to the treatment of convicts as mandated by South Carolina law;
- u. In such other particulars as the evidence at trial will show.

146. As a direct and proximate result of the grossly negligent and reckless acts of the Defendants, Plaintiff was injured and damaged and is entitled to **ACTUAL and CONSEQUENTIAL** damages.

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**FOR A FOURTEENTH CAUSE OF ACTION**

**(Violation of Tort Claims Act of South Carolina, S.C Code Section 15-78-10 *et. seq.*;  
General Allegations against Defendant SCDC – as to the Sixth Occurrence)**

147. Plaintiff reiterates all the allegations herein as fully as if repeated herein verbatim.

148. Defendant SCDC is liable for the acts of its employees, as they were acting within the course and scope of their official duties pursuant to South Carolina Code Ann. Section 15-78-10, *et. seq.* Defendants SCDC, Warden Eagleton, Associate Warden Sellers, and other employees acted in a negligent, grossly negligent, reckless, willful and wanton manner in causing injury to the Plaintiffs in the following particulars:

- a. In allowing uncontrolled violence in the correctional institution;
- b. In failing to provide protection and security for the Plaintiff;
- c. In failing to properly train officers in the proper handling of inmates;
- d. In failing to have a sufficient number of trained correctional officers;
- e. In employing employees who are contributory to the violence in the prison;
- f. In failing to comply with SCDC policies and procedures regarding the excessive use of force by correctional officers and by allowing the said violation to occur without taking corrective action and without punishment to any correctional officer who violates the same;
- g. In failing to discipline its correctional officers for violations of SCDC policies and procedures;
- h. In negligently supervising its employees by failing to provide proper training in the proper use of excessive force;
- i. In committing acts and/or omissions where Defendants knew or should have known that such acts and/or omissions would allow or facilitate the improper use of force by its correctional officers;
- j. In failing to properly investigate the improper use of excessive force by correctional officers;
- k. In preparing weekly, monthly, quarterly, and/or yearly reports which detail incidents of the use of force, which show the need for corrective actions and not taking the appropriate corrective actions;
- l. In failing to prosecute all violations of the law in reference to the treatment of convicts as mandated by South Carolina law;

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m. In such other particulars as the evidence at trial will show.

149. As a direct and proximate result of the grossly negligent and reckless acts of the Defendants, Plaintiff was injured and damaged and is entitled to ACTUAL and CONSEQUENTIAL damages.

**FOR A FIFTEENTH CAUSE OF ACTION**

(Assault and Battery – as to Defendant Correctional Officer Major Charles West)

150. Plaintiff reiterates each and every allegation contained herein as fully of if repeated herein verbatim.

151. Defendant Correctional Officer Major West, in violation of South Carolina Code § 16-3-600, assaulted and battered Plaintiff by intentionally slamming his head against the wall and twisting his arm and causing him great bodily injury.

152. Defendant Correctional Officer Major West assaulted Plaintiff's person and as a direct and proximate result, Plaintiff has been injured and damaged and is entitled to ACTUAL, CONSEQUENTIAL, and PUNITIVE DAMAGES.

**DAMAGES**

152. As a direct and proximate result of the grossly negligent, recklessness, willfulness and wantonness of the Defendants herein, Plaintiff has suffered injuries including, but not limited to:

- a. Bodily injury;
- b. Past, present and future pain and suffering;
- c. Mental pain and anguish.

**PRAYERS FOR RELIEF**

**WHEREFORE**, Plaintiff prays for this Court to enter an Order granting

- (a) Temporary and permanent injunctive relief as deemed appropriate and necessary by this Court
- (b) Attorney fees and costs associated with the injunctive relief action.

**AND:**

**WHEREFORE**, Plaintiff prays for judgment against each of the Defendants:

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- A. for actual and consequential damages, including damages for emotional distress, pain and suffering, in an amount to be determined at trial;
- B. special damages in an amount to be determined at trial;
- C. punitive damages, except as to Defendant SCDC;
- D. attorney fees and costs associated with this action pursuant to 42 U.S.C. 1983;
- E. such other and further relief as this Court deems just and proper.

Dated this 18 day of September, 2017 in Georgetown, South Carolina.

*Victoria S.H. Knight*

J. Edward Bell, III  
 Victoria S. H. Knight  
 BELL LEGAL GROUP, LLC  
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 Georgetown, SC 29440  
 TEL.: (843) 546-2408  
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[ebell@edbelllaw.com](mailto:ebell@edbelllaw.com)  
 ATTORNEYS FOR PLAINTIFF

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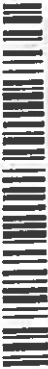
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