

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ILLINOIS**

Antonio Hunter,

Plaintiff,

v.

Illinois Department of Corrections, Robert
Jeffreys, Wexford Health Sources, Inc., Steve
Meeks, and Stephen Ritz,

Defendants.

Case No. 21-cv-271

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff, ANTONIO HUNTER, by and through his attorneys, LOEVY & LOEVY, complains of Defendants, Illinois Department of Corrections, Wexford Health Sources, Inc., Steve Meeks, and Stephen Ritz, and states as follows:

INTRODUCTION

1. Plaintiff suffers from rectal prolapse. His rectum—the last portion of his large intestine—regularly falls out of his anus. It leaks blood, mucus, and feces. Plaintiff must reach down and push his rectum back into his anus with his hands. Plaintiff's prolapsed rectum blocks his bowels and prevents him from defecating. To defecate, Plaintiff must reach into his anus and manipulate his rectum with his fingers until he moves it into such a position that his bowels release.

2. This disgusting procedure is hard to control and as a result Plaintiff sprays feces, mucus, and blood on himself and his cell. The procedure is so unsanitary that doctors at

Pinckneyville correctional center, where Plaintiff is housed, ordered that he be put in a cell by himself, because his defecations pose a health hazard to any other prisoner in the same cell with him. The rectal prolapse is painful, and it is extremely humiliating. It also inhibits him from walking around the prison facility and participating in activities like exercise.

3. Rectal prolapse is a progressive condition, but it can be treated with surgery. Indeed in adults, there is no other treatment. The prison doctor who examined Plaintiff's rectal prolapse recommended that he receive a surgical consultation—*i.e.*, that Plaintiff be seen by a specialist to determine whether surgery was appropriate for his rectal prolapse.

4. The Defendants have denied this request—for the most specious of reasons. Even though they do not dispute that Plaintiff suffers from a rectal prolapse now, they demanded first to see records of an old rectal prolapse surgery Plaintiff received in 2012 (multiple surgeries for rectal prolapse are not uncommon). But even after those records were made available to them, the Defendants took no action—and their denial of the surgical consultation remains unchanged.

5. The Defendants have also cited an unspecified blood test to claim that a rectal prolapse surgery *consultation* should be denied because Plaintiff is not losing blood from his rectum in volumes high enough to change its chemical composition. That claim appears to be based on an old blood test, and it is irrelevant: rectal prolapse requires surgery because it is dangerous, unsanitary, and humiliating, whether or not it is accompanied by life-threatening amounts of bleeding.

6. Plaintiff seeks injunctive relief requiring the Defendants to refer him for a surgical consultation, as well as surgery if the consulting specialist deems it appropriate. Plaintiff further

seeks damages for the pain and humiliation he has endured as the Defendants have refused to provide him with appropriate care, forcing him to live with a painful, disgusting, and humiliating condition for years.

JURISDICTION AND VENUE

7. This Court has subject-matter jurisdiction under 28 U.S.C. § 1331.

8. This action is brought pursuant to 42 U.S.C. § 1983 to redress the deprivation under color of law of Plaintiff's rights as secured by the United States Constitution. This action is further brought pursuant to the Americans with Disabilities Act and the Rehabilitation Act to redress discrimination against Plaintiff for his disability and Defendants' failure to accommodate that disability.

9. Venue is proper under 28 U.S.C. § 1391(b), because events giving rise to the claims asserted herein occurred within this district.

PARTIES

10. Antonio Hunter is a resident of Illinois. He is presently incarcerated in Pinckneyville Correctional Center.

11. The Illinois Department of Corrections is an entity of the State of Illinois. The IDOC operates Pinckneyville Correctional Center and it has custody of Plaintiff.

12. Rob Jeffreys is the Acting Director of the IDOC. He is sued in his official capacity.

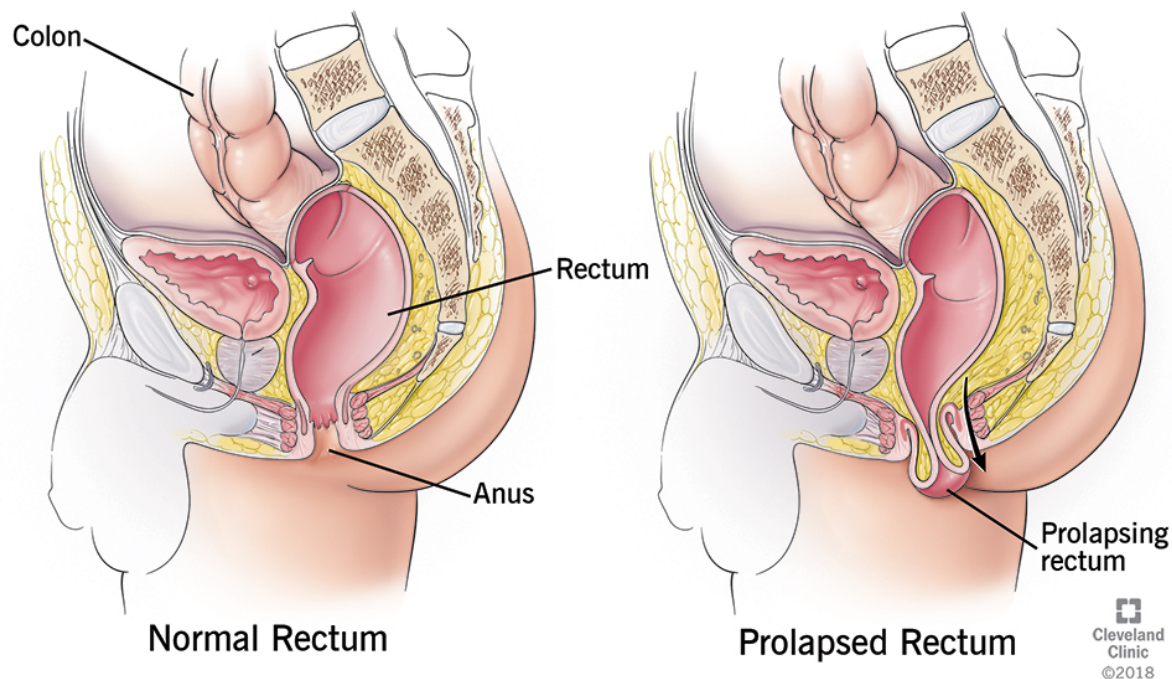
13. Steve Meeks, MD, is the Chief of Health Services of the IDOC. He is sued in his individual capacity.

14. Wexford Health Sources, Inc. operates under a contract with the IDOC to provide medical care to IDOC prisoners, including Plaintiff.

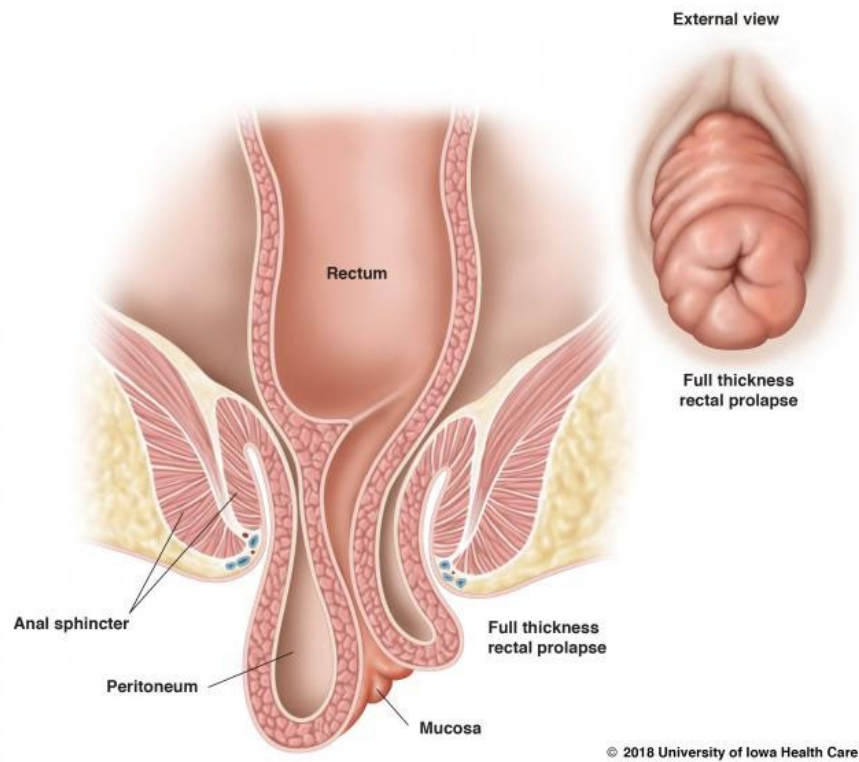
15. Stephen Ritz, DO, is a Wexford employee. On information and belief he resides in Pennsylvania. He is sued in his individual capacity.

FACTS

16. Rectal prolapse occurs when the rectum (the last section of the large intestine) turns inside out and bulges through the anus. The images¹ on the following page show profiles of normal and prolapsed rectums:



¹ Normal and prolapsed image taken from <https://my.clevelandclinic.org/health/diseases/14615-rectal-prolapse>. Profile and external image taken from: <https://uihc.org/health-topics/rectal-prolapse>



17. Rectal prolapse tends to be progressive. The prolapse may first occur only after bowel movements, but over time it occurs spontaneously and more frequently. And while at first the rectum may go back in place on its own, eventually the person suffering from rectal prolapse will need to shove it back into their anus with their hands.

18. Rectal prolapse may impede the bowel movements of the person suffering from the condition, because the prolapsed rectal tissue obstructs the feces in the colon and prevents the bowel movement from occurring. When rectal prolapse blocks bowel movements, the person must manipulate the prolapse with their hands, to move the prolapse into a place where the feces evacuate.

19. Because the rectal prolapse also stretches the anal muscle, prolapse may also be associated with fecal incontinence—mucus, blood, and feces will leak from the anus.

20. While rectal prolapse in infants may sometimes correct itself, the treatment for adult rectal prolapse is surgery. There is no other cure for rectal prolapse in adults.

21. Rectal prolapse sometimes recurs after surgery, requiring additional surgery to repair the recurrence of the prolapse.

22. Plaintiff suffers from rectal prolapse. He had surgery to repair his rectal prolapse in 2012.

23. In late 2017, Plaintiff's rectal prolapse recurred. At that time, Plaintiff was entering the IDOC's Northern Reception Center. A doctor at the NRC recorded Plaintiff's rectal prolapse as a "problem" for Plaintiff, and told Plaintiff that he would need surgery to repair it.

24. In January 2018 Plaintiff was transferred from the NRC to Pinckneyville Correctional Center. Upon his entry to Pinckneyville medical staff there again identified Plaintiff's rectal prolapse as a problem, and in light of the prolapse Plaintiff was granted a lower bunk permit. Plaintiff also asked to see a doctor about his prolapse, noting that his rectum continually "popped" out of his anus, and that he had to pack the prolapsed rectum back into his anus using his hands. Plaintiff explained his surgical history to the medical staff, and explained that when he had a bowel movement he had difficulty getting it out.

25. Plaintiff finally saw a prison physician on April 28, 2018. When Plaintiff pulled his pants down at the appointment, the physician noted that the rectal prolapse was protruding and that feces started leaking out. The prison physician diagnosed rectal prolapse.

26. Based on the April 28 evaluation, the prison physician ordered that Plaintiff be moved to a single cell. The prison physician determined that single-celling was necessary due to Plaintiff's rectal prolapse: the prolapse made Plaintiff's bowel movements so difficult to control that the bowel movements often caused feces and "associated blood" to "cover[]" his cell, which posed a health hazard to any cellmate.

27. Based on his evaluation at the April 28 appointment, the prison physician also concluded that Plaintiff needed a surgical evaluation of his rectal prolapse, to determine whether it was appropriate for surgery. The prison physician did not seek a referral for surgery itself, but rather an evaluation by a specialist to determine whether surgery was appropriate. As part of his recommendation, the prison physician noted that Plaintiff's rectal prolapse symptoms had returned after the 2012 surgery, and that Plaintiff had "extensive bleeding."

28. Pinckneyville's medical director, Dr. Bautista, agreed with the prison physician's recommendation. But Dr. Bautista could not approve a surgical consultation. Instead, he was required by Wexford policy to request permission from Wexford's corporate headquarters in a "utilization management" process known as "collegial review."

29. The collegial review was conducted by a corporate doctor in Pittsburgh named Stephen Ritz, DO. Dr. Ritz denied the request for a surgical consultation. Dr. Ritz demanded that before a surgery consultation could be approved, the records from the 2012 surgery had to be gathered and reviewed.

30. A few days after this collegial review, Plaintiff signed a permission form for the provision of the records Dr. Ritz had demanded. A June 28, 2018 note reflects that the

Pinckneyville medical staff had received Plaintiff's 2012 medical records from the facility where Plaintiff had been incarcerated at the time of his 2012 surgery.

31. Then, however, nothing happened. There is no indication in Plaintiff's medical charts that a doctor ever read the 2012 records, that they were ever sent to Wexford's corporate headquarters, or that Dr. Ritz or anyone else in Pittsburgh followed up to request the records—or to try to determine whether a surgical consult was appropriate, even without them.

32. Plaintiff waited to receive the surgical consultation referral, but it never came. Finally, on July 18, 2018, Plaintiff filed a grievance. He recounted the April 28 appointment with the prison physician and the doctor's assurance that Plaintiff would receive a surgical consultation, but noted that none had occurred. In the meantime, Plaintiff explained,

It [is] very hard for me to have bowel[] movement[s.] I got to use my hands to move the tissue in my rectal to release my bowels[.] [I]t bleeds alot[.] I got to walk around with tissue in my ret[um] [be]cause of the bleeding[.] I need medical help so please assist me. Thank you

33. The Pinckneyville healthcare unit responded that the grievance should be denied. The healthcare unit administrator claimed that no records of Plaintiff's 2012 rectal prolapse surgery had been located. Additionally, the healthcare staff responded that his blood tests did not indicate that Plaintiff was having "severe rectal bleeding"—in other words, the bleeding from Plaintiff's rectum was not severe enough to alter the composition of his blood.

34. Based on these assertions—a claim that no records had been located from his old surgery, and that bleeding from his rectum was not severe enough to alter the composition of Plaintiff's blood—Plaintiff was never sent out for a consultation to determine whether surgery for his rectal prolapse was medically appropriate.

35. From that point forward, the Defendants have never revisited the denial of the surgical consultation, even though they have received new information indicating that surgery is needed.

36. In May 2019, Plaintiff underwent emergency surgery for a spinal condition. In preparing for surgery, the outside doctors examined Plaintiff's rectum and confirmed that he had a rectal prolapse with "no rectal tone." Weakened rectal tone allows the rectum to pass through the anal canal and out of the body. These notes were sent to medical staff at Pinckneyville, but no surgery consultation for rectal prolapse was ordered.

37. Additionally, in June 2019, Plaintiff's counsel wrote to Wexford, Dr. Meeks, and counsel for Wexford. Plaintiff's counsel attached to this letter the relevant records regarding Plaintiff's 2012 prolapse surgery. Plaintiff's counsel noted that the 2012 records were already in the Defendants' hands—counsel had obtained the records through a request to the Pinckneyville healthcare unit itself.

38. Still nothing has been done. No referral for a surgical consultation of Plaintiff's rectal prolapse was ordered after the Defendants received the May 2019 medical notes confirming Plaintiff's rectal prolapse, or any time since. No surgical consultation was ordered after the Defendants received the June 2019 letter from Plaintiff's counsel, along with the accompanying 2012 surgery records that Dr. Ritz had demanded before permitting a surgical consultation to occur. And no such consultation has been ordered anytime since.

39. As a result, Plaintiff has been left to fend for himself. He stuffs tissues in his anus to stanch the bleeding from his anus. In addition to blood, he suffers leakage of feces and

mucus. When it comes time for Plaintiff to defecate, he must “disimpact” his bowels by packing his rectum back into his anus with his hand, and then reaching into his anus with his fingers to manipulate the location of his prolapsed rectal tissue until it is in such a position that his feces release.

40. Defendants have recognized this, and continue to house Plaintiff in a single cell to prevent Plaintiff’s discharges of feces, mucus, and blood from posing a health hazard to a cellmate. At this time, however, none of the Defendants has arranged for a surgical consultation for Plaintiff, and none of them has intervened to ensure that such an arrangement is made.

41. Plaintiff’s rectal prolapse cause him to suffer every day. It is difficult for Plaintiff to walk or engage in normal activities like exercise. Plaintiff is forced to handle his rectum and place his fingers in his anus multiple times per day, and he sprays himself, his hands, and his cell with blood, mucus, and feces on a regular basis when he engages in the everyday activity of using the restroom. He suffers enormous pain and discomfort, in addition to emotional distress, embarrassment, and shame.

LEGAL CLAIMS

COUNT I

Eighth Amendment - 42 U.S.C. § 1983 (Wexford, Meeks, Ritz, Jeffreys)

42. Each paragraph of this complaint is incorporated herein.

43. In the manner described more fully above, Defendants have been aware of Plaintiff’s medical needs and the seriousness of his medical needs, and have known the risk of harm to Plaintiff if he did not receive appropriate medical care. Despite that knowledge,

Defendants have failed to provide him with proper medical care or access to medical care, in violation of the Eighth Amendment to the United States Constitution.

44. In the manner more fully described above, Defendants have had reasonable opportunity to prevent the violation of Plaintiff's constitutional rights as set forth above had they been so inclined, but they have failed to do so.

45. As a result of Defendants' unjustified and unconstitutional actions and omissions, Plaintiff has and continues to experience injuries, including but not limited to exposure to feces, blood, and mucous; humiliation; pain; suffering; and emotional distress.

46. The misconduct described in this Count was and has been objectively unreasonable and has been undertaken intentionally, with malice, and/or with reckless indifference to Plaintiff's rights.

47. Alternatively, Defendants were and continue to be deliberately indifferent to Plaintiff's objectively serious medical needs, and their actions have been undertaken intentionally, with malice, and/or reckless indifference to Plaintiff's rights.

48. Plaintiff's injuries, including but not limited to pain, suffering, exposure to feces blood and mucus, humiliation, and emotional distress, have been proximately caused by policies and practices of Defendants.

49. Plaintiff's injuries were and continue to be proximately caused by the policies and practices of Defendant Wexford Health Sources, Inc. At all times relevant to the events at issue in this case, Defendant Wexford has contracted with the IDOC to provide healthcare to men housed in IDOC prisons, including Plaintiff. As the provider of healthcare services, Wexford has

been responsible for the creation, implementation, oversight, and supervision of policies, practices, and procedures regarding the provision of medical care to prisoners in IDOC custody.

50. Prior to and during the events giving rise to Plaintiff's Complaint, Defendant Wexford has had notice of widespread policies and practices by staff at within IDOC facilities pursuant to which prisoners like Plaintiff with serious medical needs are routinely denied medical care and access to medical care. It is common within the IDOC to see prisoners with clear symptoms of serious medical needs whose medical records reflect an obvious need for treatment whose medical treatment are routinely delayed or completely ignored by healthcare and correctional employees. Despite knowledge of these problematic policies and practices, Defendant Wexford has done nothing to ensure that prisoners in IDOC received adequate medical care and access to medical care, thereby acting with deliberate indifference.

51. Specifically, there exist policies or widespread practices in the IDOC and Wexford pursuant to which prisoners receive unconstitutionally inadequate healthcare, including policies and practices pursuant to which: (1) healthcare personnel commonly fail to respond or follow up on complaints by prisoners about their health status; (2) healthcare personnel fail to review relevant medical records as part of a patient's treatment plan; (3) healthcare personnel fail to create a sensible treatment plan for patients whose health status require the creation of a treatment plan; (4) healthcare personnel fail to schedule follow-up appointments deemed appropriate by members of the medical staff; (5) healthcare personnel fail to take action to secure continuity of care; (6) inadequate levels of health care staffing are maintained; and (7) healthcare personnel fail to refuse to arrange for prisoners to be treated in outside facilities, even when an

outside referral is necessary or proper.

52. These widespread policies and practices have been allowed to flourish because Defendant Wexford, which directs the provision of healthcare services within the IDOC, directly encourages the very type of misconduct at issue in this case, fails to provide adequate training and supervision of healthcare and correctional employees, and fails to adequately punish and discipline prior instances of similar misconduct. In this way, Defendant Wexford has violated Plaintiff's rights by maintaining policies and practices that have been the moving force driving the foregoing constitutional violations.

53. The above-described practices, so well-settled as to constitute de facto policy within the IDOC and Wexford, have been able to exist and thrive because Defendant Wexford has been deliberately indifferent to the problem, thereby effectively ratifying it.

54. Wexford has also acted to violate Plaintiff's constitutional rights through denials of medical care by persons delegated with final policymaking authority by Defendant Wexford.

55. Plaintiff's injuries have been and continue to be caused by employees of IDOC and Wexford, including but not limited to the individually named Defendants, who acted pursuant to the foregoing policies and practices in engaging in the misconduct described above.

COUNT II
Americans with Disabilities Act
(IDOC and Wexford)

56. The other paragraphs of this complaint are incorporated as if fully set forth herein.

57. Congress enacted the ADA "to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities." 42 U.S.C. §

12101(b)(1). Title II of the ADA states that “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.” 42 U.S.C. § 12132.

58. To prevent discrimination, 28 C.F.R. § 35.130(b)(7) requires a public entity to “make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the services, program, or activity.”

59. Plaintiff has a disability within the meaning of the Americans with Disabilities Act.

60. The IDOC is a public entity as defined in 42 U.S.C. § 12131(1).

61. Wexford, which operates health services and is a health care provider, operates a place of public accommodation as defined in 42 U.S.C. §§ 12182(a) and 12181(7)(F).

62. Under the Title II of the ADA, the IDOC is responsible for ensuring that individuals in its custody with known disabilities are provided with reasonable accommodations to prevent discrimination on the basis of disability and are not, on the basis of disability, excluded from participation in or denied the benefits of its services, programs, or activities because of their disability.

63. Under Title III of the ADA, Wexford, as an operator of a place public accommodation, is responsible for ensuring that users of the public accommodation have access

to its services, including access to medical services.

64. Plaintiff is otherwise qualified to participate in programs, services, or benefits offered by the IDOC and Wexford, including but not limited to access to medical services, the provision of a reasonably sanitary and hygienic means of using the restroom and the provision of settings in which prisoners can ambulate comfortably around the facility.

65. Despite Plaintiff's known and obvious disability the IDOC and Wexford have failed to reasonably accommodate his disability, as described herein.

66. Because of Plaintiff's disability, the IDOC and Wexford have been excluding him from or has denied him access to each program, service, or benefit described herein. Thus Plaintiff has been subjected to discrimination in each program, service, or benefit as a result of his disability.

67. Plaintiff has been injured and continues to be injured as a result of this discrimination, as described elsewhere in this complaint.

COUNT III
Rehabilitation Act
(IDOC)

68. The other paragraphs of this complaint are incorporated as if fully set forth herein.

69. Plaintiff has a disability within the meaning of the Rehabilitation Act.

70. Plaintiff is otherwise qualified to participate the following programs, services, or benefits as described herein.

71. Under the Rehabilitation Act the IDOC is responsible for ensuring that individuals in its custody with known disabilities are provided with reasonable accommodations

to prevent discrimination on the basis of disability and are not, on the basis of disability, excluded from participation in or denied the benefits of its services, programs, or activities because of their disability.

72. The IDOC receives federal funding.

73. Despite Plaintiff's known and obvious disability the IDOC failed to reasonably accommodate his disability, as described herein.

74. Because of Plaintiff's disability, the IDOC is and has been excluding him from or have denied him access to each program, service, or benefit described herein. Thus, Plaintiff has been subjected to discrimination in each program, service, or benefit as a result of his disability.

75. Plaintiff has been injured and continues to be injured as a result of this discrimination, as described elsewhere in this complaint.

WHEREFORE, Plaintiff requests the following relief:

1. Declare that the Defendants' conduct as alleged herein violates:
 - a. The Americans with Disabilities Act;
 - b. The Rehabilitation Act;
 - c. The Eighth Amendment's prohibition against cruel and unusual punishment.
2. Award equitable relief, including an order that defendants Jeffreys, IDOC, and Wexford arrange for Plaintiff to receive a surgical consultation to determine whether surgery to correct for correction of his rectal prolapse.
3. Award actual damages for the physical and emotional injuries Plaintiff has suffered as a

result of the Defendants' misconduct, as described herein.

4. Award punitive damages against each of the defendants except Jeffreys and the IDOC.
5. Award costs and attorneys' fees.
6. Award all other relief that is just and equitable.

JURY DEMAND

Plaintiff hereby demands a trial by jury pursuant to Federal Rule of Civil Procedure 38(b) on all issues so triable.

RESPECTFULLY SUBMITTED,

/s/ Stephen H. Weil
Stephen H. Weil

One of Plaintiff's attorneys

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