

Honorable Judge Benjamin H. Settle

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JESUS CHAVEZ FLORES,

Plaintiff,

v.

UNITED STATES IMMIGRATION AND
CUSTOMS ENFORCEMENT; THOMAS
D. HOMAN, Deputy Director and Senior
Official Performing the Duties of the
Director of the U.S. Immigration and
Customs Enforcement; MARC J. MOORE,
Director of the Seattle Field Office of U.S.
Immigration and Customs Enforcement;
BRYAN WILCOX, Deputy Director of the
Seattle Field Office of U.S. Immigration and
Customs Enforcement; WILLIAM
PENALOZA, Assistant Field Office
Director, Detention, Seattle Field Office of
U.S. Immigration and Customs Enforcement;
ICE DOES 1-10; THE GEO GROUP, INC.,
a Florida corporation; LOWELL CLARK,
Warden, Northwest Detention Center;
MICHAEL BEARDSLEY, Officer,
Northwest Detention Center; LEROY
PORTILLO, Captain, Northwest Detention
Center; GEO DOES 1-10,

Defendants.

NO. 3:18-cv-05139-BSH-DWC

FIRST AMENDED COMPLAINT

JURY DEMAND

PLAINTIFF'S FIRST AMENDED COMPLAINT - 1

American Civil Liberties Union of
Washington Foundation
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I. INTRODUCTION

1. Plaintiff Jesus Chavez Flores (“Chavez”), an immigrant detainee at the Northwest Detention Center (“NWDC”) in Tacoma, Washington, seeks declaratory and injunctive relief and compensatory and punitive damages to address Defendants’ retaliation against him for exercising his First Amendment right to engage in peaceful protest of state action.

2. In early February 2018, over 120 immigrant detainees at NWDC engaged in a hunger strike to protest conditions of their confinement. Detainees sought to call attention to issues including the food they receive and the wage of one dollar per day paid to detainees for cooking, cleaning, and otherwise maintaining the center.¹

3. Mr. Chavez participated in the hunger strike along with the other detainees in his unit, C-3.

4. Defendants, by and through their employees and agents at NWDC, which Defendants operate and have exclusive control and authority over, accused Mr. Chavez of leading the hunger strike in his unit.

5. Minutes later, a NWDC guard physically assaulted Mr. Chavez and other detainees who participated in the hunger strike. The guard shoved detainees against the wall, choked one detainee, and punched Mr. Chavez in the eye.

6. Guards then imprisoned Mr. Chavez in an isolation unit on false disciplinary charges.

7. Mr. Chavez was locked in the isolation unit for twenty days, where he was permitted only one hour outside in a small “yard” by himself each day. He was allowed to

¹ Other suits have been filed against GEO to enforce state minimum wage laws on behalf of immigrant detainees at the NWDC. *See, e.g., Washington v. GEO Group, Inc.*, No. 3:17-05806, 2017 WL 6034369 (W.D. Wash. Dec. 6, 2017); *cf. Menocal v. GEO Grp., Inc.*, No. 17-1125, 2018 WL 797165 (10th Cir. Feb. 9, 2018) (same challenge in Colorado). These underlying employment issues are not the subject of this Complaint.

1 shower only three times per week. He was handcuffed and shackled every time he left the
2 isolation cell. He was required to fill out written requests in English to go to the medical clinic or
3 make phone calls, and received no assistance from anyone, even though he speaks and writes
4 only in Spanish. After his release from segregation, he was reclassified to a higher security level
5 and moved to a different unit than before.

6 8. Mr. Chavez continued to have difficulty opening his injured eye, and could not
7 see properly out of that eye. He was denied appropriate medical care for his injury until he filed
8 suit.

9 9. As a result of Defendants' actions, Mr. Chavez has suffered serious injury.

10 II. PARTIES

11 10. Plaintiff Jesus Chavez Flores is an immigrant held in civil detention under the
12 custody of Immigration and Customs Enforcement ("ICE") at NWDC while he awaits
13 adjudication of his immigration case. Mr. Chavez speaks and reads Spanish, and cannot speak or
14 read English.

15 11. Defendant ICE is a federal law enforcement agency within the Department of
16 Homeland Security. ICE is responsible for the criminal and civil enforcement of the immigration
17 laws, including the detention, incarceration, and removal of immigrants. ICE discharges its
18 responsibility for incarceration of immigrants by promulgating detention standards for the
19 facilities in which immigrants are held pending removal hearings, and contracting with the
20 government entities and private corporations that operate detention facilities, including NWDC.
21 Enforcement and Removal Operations ("ERO"), a division of ICE, manages and oversees the
immigration detention system. ICE authorizes the placement of detainees in disciplinary
segregation. ICE contracts with the GEO Group, Inc. to handle daily operations for NWDC.

1 12. Defendant Thomas D. Homan ("Homan") is the Principal Deputy Assistant
2 Secretary of ICE. Defendant Homan is responsible for ICE's policies, practices, and procedures,
3 including those relating to the detention of immigrants during their removal procedures.

4 13. Defendant Marc J. Moore ("Moore") is the Field Officer Director for the Seattle
5 Field Office of ICE. The Seattle Field Office is responsible for carrying out ICE's immigration
6 detention and removal operations in Alaska, Oregon, and Washington State.

7 14. Defendant Bryan Wilcox ("Wilcox") is the Deputy Field Office Director for the
8 Seattle Field Office of ICE.

9 15. Defendant William Penaloza ("Penaloza") is the Assistant Field Office Director
10 for Detention in the Seattle Field Office of ICE.

11 16. As Field Office Director, Deputy Field Office Director, and Assistant Field Office
12 Director, Defendants Moore, Wilcox, and Penaloza oversee the Seattle Field Office's functions
13 and implementation of ICE detention standards at NWDC.

14 17. In addition to the foregoing ICE agents and officials, unknown named ICE agents
15 and officials are sued herein in their official capacities under fictitious names as "ICE Does 1-
16 10" because their true names, titles, capacities, and/or degree of responsibility for the acts
17 alleged herein are unknown to Plaintiff at this time. When Plaintiff ascertains this information,
18 he will amend this Complaint accordingly. ICE Does 1-10 include, but are not limited to, ICE
19 Officials and Supervisors, ICE Officers, and/or Immigration Enforcement Agents with ICE
20 (collectively, the "ICE Doe Defendants"). The ICE Doe Defendants are legally liable to Plaintiff
21 in some part for the wrongful acts and omissions of which Plaintiff complains herein.

 18. Defendants Moore, Homan, Wilcox, Penaloza, and ICE Doe Defendants ("ICE

1 Defendants”) are sued only in their official capacities.

2 19. Defendant GEO Group, Inc. (“GEO”) is a corporation organized under the laws of
3 the State of Florida and conducts regular business in the State of Washington, including
4 operation of NWDC. GEO detains tens of thousands of immigrant detainees in the United States.
5 In 2015, GEO received \$326 million in revenue from ICE detention contracts nationwide. GEO
6 owns and operates NWDC. Under the terms of a contract with ICE, GEO provides the facility,
7 management, personnel, and services for 24-hour supervision of immigrant detainees in ICE
8 custody. This contract provides that GEO guards may conduct searches for contraband and may
9 place detainees in segregation units, with notification to and oversight by ICE.

10 20. Defendant Lowell Clark (“Clark”) is the Warden of NWDC. He operates NWDC
11 for GEO. Clark is responsible for supervision of all GEO staff at the facility and is an employee
12 of GEO.

13 21. Defendant Michael Beardsley (“Beardsley”) is an Officer at NWDC. He is an
14 employee of GEO.

15 22. Defendant Leroy Portillo (“Portillo”) is a Captain at NWDC. He is an employee
16 of GEO.

17 23. In addition to GEO, unknown named employees of GEO are sued herein in their
18 individual capacities under fictitious names as “GEO Does 1-10” because their true names,
19 capacities, and/or degree of responsibility for the acts alleged herein are unknown to Plaintiff at
20 this time. When Plaintiff ascertains this information, he will amend this Complaint accordingly.
21 GEO Does 1-10 include, but are not limited to, employees of GEO and/or other individuals
charged with the care and custody of detainees at NWDC (collectively, the “GEO Doe

1 Defendants”). The GEO Doe Defendants are legally liable to Plaintiff in some part for the
2 wrongful acts and omissions of which Plaintiff complains herein.

3 24. Defendants GEO, Clark, Portillo, Beardsley, and GEO Doe Defendants are
4 referred to collectively as “GEO Defendants.”

5 25. Each of the Defendants caused, and is liable for, the unconstitutional and unlawful
6 conduct and resulting injuries, by, among other things, personally participating in said conduct or
7 acting jointly with others who did so; by authorizing, acquiescing or setting in motion policies,
8 plans or actions that led to the unlawful conduct; by failing or refusing with deliberate
9 indifference to maintain adequate supervision; and/or by ratifying the unlawful conduct taken by
10 employees under their direction and control. Defendants’ actions were taken pursuant to a policy,
11 custom, or usage of the contract between ICE and GEO.

11 **III. JURISDICTION AND VENUE**

12 26. This Court has subject matter jurisdiction over this matter under 28 U.S.C. § 1331
13 (federal question) and 28 U.S.C. § 1346 (original jurisdiction).

14 27. The Court has supplemental jurisdiction over Plaintiff’s state law claims under 28
15 U.S.C. § 1367.

16 28. Venue is proper in the Western District of Washington under 28 U.S.C. §§
17 1391(b) and (e) because a substantial part of the events and omissions giving rise to Plaintiff’s
18 claims occurred, and continue to occur, in this District.

18 **IV. FACTS**

19 **A. Mr. Chavez and Other Detainees Were Choked, Punched, and Shoved by 20 Guards After Engaging in a Peaceful Hunger Strike.**

21 29. On Wednesday, February 7, 2018, some of the detainees at NWDC began a

1 hunger strike to protest conditions of confinement at the facility.

2 30. The next day, on February 8, 2018, after hearing that other units had begun a
3 hunger strike, detainees in Unit C-3 joined the effort. Everyone in the unit participated in the
4 hunger strike, which they began at lunchtime by refusing their meal trays.

5 31. A guard demanded that they eat and threatened to put them in a holding cell if
6 they did not.

7 32. At the start of the strike, Mr. Chavez talked to another detainee about his reasons
8 for participating in the strike. Mr. Chavez participated in the strike because of his concerns
9 regarding the quality and quantity of the food received by detainees and the wage of one dollar
per day paid to detainees to maintain the facility.

10 33. A guard in the unit, Michael Snyder, overheard him talking, told him to "shut up,"
11 and instructed him to come to the front of the unit. Mr. Chavez complied.

12 34. When Defendant Portillo entered the unit, he asked who was responsible for the
13 strike. Officer Snyder pointed at and said that Mr. Chavez was the leader of the hunger strike.

14 35. Defendant Portillo tried to take Mr. Chavez and another detainee, Mr. Orozco,
15 who was interpreting for Mr. Chavez, outside of the unit.

16 36. The other detainees objected and requested that Defendant Portillo talk with Mr.
17 Chavez and Mr. Orozco inside the unit, explaining that they were all participants in the hunger
strike.

18 37. Several additional guards entered the unit, including Michael Beardsley, known to
19 be aggressive and abusive with detainees.

20 38. Defendant Beardsley began to push and shove detainees near the entrance of the

1 unit.

2 39. Defendant Beardsley pushed Mr. Chavez.

3 40. Defendant Beardsley also aggressively pushed another detainee, whose name is
4 unknown, against Benito Vasquez Sanchez ("Vasquez"), a detainee standing near the door. He
5 pushed them so hard that Mr. Vasquez hit a phone station, injuring his right side.

6 41. Defendant Beardsley then grabbed detainee Jose Mesino Garcia ("Mesino") by
7 the neck. He choked Mr. Mesino three times in a row.

8 42. After Defendant Beardsley let go of Mr. Mesino, he punched Mr. Chavez with a
9 closed fist in the left eye. Upon impact, Mr. Chavez bent over and tried to cover his eye with his
10 hands.

11 43. Such use of force is specifically prohibited under ICE guidelines, which specify
12 that choke holds, carotid control holds, and other neck restraints are specifically prohibited
13 unless deadly force would be authorized, and that using force against a detainee offering no
14 resistance is generally prohibited, unless both necessary and reasonable in the circumstances.

15 44. The guards told Mr. Chavez and Mr. Orozco to "get out" of the unit. Mr. Orozco
16 was in handcuffs. Mr. Chavez was afraid to exit the unit because Defendant Beardsley—who had
17 just punched him—was nearby. Mr. Chavez agreed to move only after Defendant Beardsley left
18 the area.

19 45. Mr. Chavez was taken to the medical unit, where he was examined by a doctor,
20 but only given over-the-counter pain medication. No other medical treatment was offered, even
21 though he was in extreme pain.

46. After the exam, Defendant Portillo spoke to Mr. Chavez and Mr. Orozco.

1 Defendant Portillo accused Chavez of being the leader of the hunger strike. Mr. Chavez
2 explained that he was not the leader of the strike, and that everyone in the unit had decided to
3 participate together.

4 47. Defendant Portillo and other guards then held a meeting with the other detainees
5 in Unit C-3. Defendant Portillo told the detainees that if ICE found out about what had happened,
6 there would be "more problems." Defendant Portillo told the detainees that there was no need to
7 participate in a hunger strike because they could fill out "kites" to file their complaints. The
8 detainees responded that they had used kites in the past, but did not receive responses.

9 48. Some detainees, including Mr. Chavez, continued to participate in the hunger
10 strike after the assaults.

11 49. Other detainees did not continue the strike because the guards began to write
12 down the names of those who refused food, and the detainees feared retaliation.

13 50. One guard told detainees that if they did not eat, it would negatively impact and
14 prejudice their immigration cases.

15 51. The next morning, February 9, 2018, Mr. Chavez went to the medical unit again
16 because he was unable to open his eye. He was given only ointment and eye drops.

17 **B. Mr. Chavez Was Placed into Isolation on False Disciplinary Charges,**
18 **Without Proper Procedural Protections.**

19 52. On Saturday, February 10, 2018, Mr. Chavez again returned to the medical unit
20 because his vision was blurry and it was still difficult for him to open his eye.

21 53. He was examined by a different doctor than the day of his injury. This new doctor
recommended that he go to an offsite hospital for an eye examination.

54. However, the initial examining doctor denied this offsite hospital visit. Mr.

1 Chavez returned to his unit.

2 55. When Mr. Chavez returned to his unit, he sat with some other detainees, including
3 Mr. Vasquez. A guard approached them and spoke in English to another detainee. The guard
4 pointed to a box (locker) in the unit and asked whose it was. Mr. Vasquez responded that he did
5 not know.

6 56. Approximately thirty minutes later, guards left copies of Evidence/Search Reports
7 on each detainee's bed. The reports described any confiscated property taken from detainees
8 after an inspection for contraband. Mr. Chavez's report, completed that day by guards at 2:45
9 p.m., indicated that he had nothing in his property that had been confiscated.

10 57. At 3:00 p.m., the guards changed shifts. A guard instructed Mr. Chavez to go to
11 the doctor. Mr. Chavez went to the medical unit again, but was told that he did not need to be
12 there and to return the following week. Mr. Chavez returned to Unit C-3 and informed the guard
13 that he had been told not to go to the medical unit until the following week.

14 58. The guard told him to go back to the medical unit.

15 59. Guards then took Mr. Chavez to a small room, not the medical unit. A guard in
16 the room asked him in Spanish, "when is the party going to be?" Mr. Chavez responded, "what
17 party?"

18 60. The guard replied, "the party that you are preparing for after the strike, because
19 regularly, after a hunger strike, they celebrate with wine." Mr. Chavez responded that he did not
20 know what the guard was talking about.

21 61. The guard showed Mr. Chavez a photo of a bag with apples and water in it,
apparently used to make alcohol. He informed Mr. Chavez that the bag had been found in his

1 property.

2 62. The guard told Mr. Chavez that he was being put into segregation.

3 63. Mr. Chavez informed the guard that the bag was not his. He asked the guard to
4 review the cameras, which provide video surveillance of the residential unit.

5 64. The guard gave Mr. Chavez an Administrative Detention Order, which stated that
6 he was being placed into the Restrictive Housing Unit pending a charge for adulterating food and
7 drink. The order was issued at 4:20 p.m.

8 65. The guard also gave Mr. Chavez a Notice of Disciplinary Panel Hearing, which
9 stated that he was being referred to the Unit Disciplinary Committee ("UDC") two days later, on
10 February 12, 2018 at 11:00 a.m.

11 66. Detainees who are placed in administrative segregation must receive an order in a
12 language the detainee can understand. Under ICE guidelines, all written materials provided to
13 detainees must generally be translated into Spanish.

14 67. Detainees subject to discipline in ICE detention must first receive an Incident
15 Report. An Incident Report may be forwarded to the UDC, which conducts hearings and may
16 impose sanctions on detainees. Detainees in UDC proceedings have the right to a hearing within
17 24 hours after the conclusion of an investigation, to attend the entire hearing, or waive the right
18 to appear. Detainees may present statements and evidence, including witness testimony on
19 his/her behalf, and appeal the committee's determination through a grievance process. The UDC
20 must serve a copy of its decision to the detainee.

21 68. The Incident Report, Administrative Detention Order, and Notice of Disciplinary
Panel Hearing issued to Mr. Chavez were all only in English, not Spanish.

1 69. The guard instructed Mr. Chavez that he would have a chance to talk with a judge
2 from Defendant GEO who would decide if he should continue to be in segregation.

3 70. Mr. Chavez again asked the guard to check the cameras.

4 71. Guards handcuffed Mr. Chavez, and placed him in segregation.

5 **C. Mr. Chavez Was Placed in Disciplinary Segregation Without Due Process**
6 **After the Tacoma Police Department Investigated NWDC Guards.**

7 72. Mr. Chavez was placed in segregation on February 10, 2018.

8 73. From February 10, 2018 to March 1, 2018, Mr. Chavez spent 23 hours a day in
9 isolation, in a cell that only had a bed, a toilet, shelf, table, chair, and a sink.

10 74. Mr. Chavez was only allowed to shower three times a week.

11 75. Mr. Chavez was prohibited from participating in any programming activities.

12 76. Guards informed Mr. Chavez that he would have a disciplinary hearing on
13 Monday, February 12, 2018 regarding his status in segregation.

14 77. No one came to talk to Mr. Chavez on February 12, 2018. He did not waive the
15 right to appear at this hearing.

16 78. On Wednesday, February 14, 2018, a police officer from the Tacoma Police
17 Department interviewed Mr. Chavez at NWDC. His wife had called the Police Department to
18 report Mr. Chavez's assault by Defendant Beardsley. The police officer asked Mr. Chavez about
19 what had happened that day. The police officer did not speak Spanish, and an NWDC guard,
20 employed by GEO, served as an interpreter. The police officer also took a statement from
21 NWDC guards regarding the incident.

 79. A few hours after the police officer's visit, Mr. Chavez was informed that he
would be placed in disciplinary segregation for 20 days.

1 80. Disciplinary segregation is a punitive form of solitary confinement, and is the
2 most restrictive form of segregation in an ICE facility. A detainee may be placed in disciplinary
3 segregation only by order of the Institution Disciplinary Panel (“IDP”), which conducts formal
4 hearings on Incident Reports referred by the UDC. Detainees must receive a copy of the UDC
5 decision, written notification of charges, and a hearing before the IDP. Detainees have the right
6 to attend the entire IDP hearing, present statements and evidence, and appeal the committee’s
7 determination. A detainee may only be placed in disciplinary segregation after a hearing where
8 the detainee has been found to have committed a prohibited act and only when alternative
9 dispositions are not deemed adequate to regulate the detainee’s behavior. The chair of the IDP
10 must complete a written order, which must be immediately provided to the detainee in a
11 language the detainee can understand. All written materials provided to detainees must generally
12 be translated into Spanish.

13 81. Mr. Chavez was not provided with a copy of the UDC decision or given notice,
14 formal or informal, of the IDP hearing. Because he did not know the hearing was taking place, he
15 did not attend the hearing.

16 82. After the IDP hearing on February 14, 2018, Mr. Chavez was given a copy of an
17 IDP Report. The report was issued in English, not Spanish.

18 83. The report states that he had been found guilty of violating Code Section 210:
19 Adulteration of Food or Drink. The report indicates that no documentary evidence other than the
20 incident report was considered. The report indicates that Mr. Chavez had requested video to be
21 reviewed, but states that he “could not provide any potential date or time when somebody might
have put items in box.” At no time did anyone ask Mr. Chavez about the date and time related to

1 the video review he requested on February 10, 2018, the day of the incident.

2 84. The IDP Report states that Mr. Chavez would be placed into disciplinary
3 segregation for 20 days, with time served. He was not scheduled to be released from segregation
4 until March 1, 2018.

5 85. During Mr. Chavez's segregation, guards handcuffed both Mr. Chavez's hands
6 and feet when leaving the isolation cell, which they did not do previously. Mr. Chavez was the
7 only detainee in the unit who had to follow that protocol.

8 86. On Thursday, February 15, 2018, Defendant Beardsley—the guard who assaulted
9 Mr. Chavez—was assigned to bring him out of the isolation cell. Mr. Chavez did not want to
10 come out because he was scared of the guard.

11 87. Mr. Chavez was required to fill out a form to request phone calls and medical
12 attention. The form provided to him was only in English and he had trouble filling it out because
13 he does not speak English and because he could not see properly out of his injured eye. He was
14 told that officers would review his requests and provide a response within two days.

15 88. The guards did not provide him with assistance in filling out the forms.

16 89. Even though he filled out a request to call his wife on February 16, 2018, Mr.
17 Chavez did not receive a response from officers until February 21, 2018.

18 90. Mr. Chavez is no longer participating in the hunger strike because he fears
19 physical harm and further retribution and does not want to get in further trouble.

20 91. On March 1, 2018, Mr. Chavez was released from segregation. He was placed
21 into a new unit with a higher security classification.

92. Mr. Chavez has suffered serious irreparable injury as a direct result of

1 Defendant's actions. He suffered irreparable harm during his unlawful solitary confinement. He
2 has been placed in a higher security level of detention after his release from solitary confinement,
3 and fears further retaliation if he exercises his right to free speech.

4 93. Mr. Chavez also continues to suffer injury to his eye. He was permitted to see a
5 doctor outside of the detention facility only after he filed suit. Mr. Chavez has suffered these
6 injuries as a result of his lawful and peaceful participation in classic First Amendment activity: a
7 hunger strike to protest Defendants' management of the NWDC.

8 94. Defendants have engaged in a pattern and practice of assault and battery against
9 detainees at NWDC. Defendants have also engaged in a pattern and practice of placing detainees
10 who have participated in hunger strikes in solitary confinement in retaliation for exercising their
11 First Amendment rights.

12 **FIRST CAUSE OF ACTION: VIOLATION OF FREEDOM OF EXPRESSION**

13 **(Federal Constitutional Claim) (Against All Defendants)**

14 94. Plaintiff repeats and realleges each of the allegations contained in paragraphs 1-
15 94 above as if fully set forth herein.

16 95. The First Amendment guarantees Plaintiff the right to freedom of speech and
17 freedom of expression. Plaintiff exercised his right to these protected freedoms by engaging in a
18 hunger strike to express his views about conditions of confinement at NWDC.

19 96. Defendants violated Plaintiff's right to freedom of speech and freedom of
20 expression by assaulting him, placing him in solitary confinement, and changing his security
21 level in retaliation for his free speech activities.

97. Defendants' actions chilled Plaintiff's right to freedom of speech and expression.

1 98. Defendants' actions did not reasonably advance a legitimate institutional goal.

2 99. Plaintiff suffered, and continues to suffer, irreparable injuries as a result of
3 Defendants' policies, practices, and omissions and is entitled to injunctive relief to avoid further
4 injury.

5 **SECOND CAUSE OF ACTION: ASSAULT AND BATTERY**

6 **(Washington State Tort Claim) (Against Defendants GEO, Clark, Portillo, Beardsley, and
7 GEO Does 1-10)**

8 100. Plaintiff repeats and realleges each of the allegations contained in paragraphs 1 -
9 100 above as if fully set forth herein.

10 101. Defendants are responsible for the acts and occurrences alleged and Plaintiff's
11 damages were proximately caused by these Defendants.

12 102. On February 8, 2018, Defendant Beardsley struck Plaintiff in the eye.

13 103. Defendant Beardsley intended to make contact with Plaintiff and struck him
14 without provocation or just cause.

15 104. At no time did Plaintiff consent to the act of the Defendants.

16 105. Defendants Beardsley, Clark, Portillo, and GEO Does 1-10 were acting in the
17 scope of their employment for GEO in the commission of these acts.

18 **THIRD CAUSE OF ACTION: FALSE IMPRISONMENT**

19 **(Washington State Tort Claim) (Against Defendants GEO, Clark, Portillo, GEO Does 1-10)**

20 106. Plaintiff repeats and realleges each of the allegations contained in paragraphs 1-
21 106 above as if fully set forth herein.

 107. On February 10, 2018, Defendants placed Plaintiff in solitary confinement

1 without proper due process and on the basis of false charges in retaliation for his exercise of First
2 Amendment protected speech.

3 108. Plaintiff did not commit the offense for which he was placed in solitary
4 confinement; nor did Defendants follow required procedures in placing him in solitary
5 confinement.

6 109. Defendants acted with deliberate malice and disregard in retaliation for Plaintiff's
7 exercise of his First Amendment rights.

8 110. Defendants placed Plaintiff in solitary confinement without proper authority,
9 constituting a violation of state tort law of false imprisonment.

10 111. Plaintiff suffered harm, including, but not limited to, loss of liberty and severe
11 emotional distress.

12 112. Defendants Clark, Portillo, and GEO Does 1-10 acted in the scope of their
13 employment for GEO when they committed these acts.

14 **FOURTH CAUSE OF ACTION: NEGLIGENCE**

15 **(Washington State Tort Claim) (Against Defendants GEO, Clark, Portillo, Beardsley, and**
16 **GEO Does 1-10)**

17 113. Plaintiff repeats and realleges each of the allegations contained in paragraphs 1-
18 113 above as if fully set forth herein.

19 114. Defendants breached their duty of reasonable care by negligently acting in such a
20 way that resulted in Plaintiff's injury, which they knew or should have known would pose a
21 substantial risk of harm to Plaintiff.

115. Defendants breached their duty of reasonable care by negligently acting or
omitting to act in such a way that resulted in Plaintiff's wrongful detention in solitary

1 confinement, which they knew or should have known posed a substantial risk of harm to
2 Plaintiff.

3 116. Defendants breached their duty of reasonable care by failing to timely provide
4 adequate medical care to Plaintiff, which they knew or should have known would pose a
5 substantial risk of harm to Plaintiff.

6 117. Plaintiff suffered injury as a result of Defendants' negligence.

7 118. Defendants Clark, Portillo, Beardsley, and GEO Does 1-10 acted in the scope of
8 their employment for GEO when they committed these acts.

9 **PRAYER FOR RELIEF**

10 WHEREFORE Plaintiff requests judgment be entered against the Defendants as follows:

11 1. A permanent injunction prohibiting Defendants, their subordinates, agents,
12 employees, and all others acting in concert with them from retaliating against Plaintiff, including
13 incarceration of Plaintiff in segregation, solitary confinement, or isolation based upon his
14 engagement in free speech activities;

15 2. Declaratory judgment declaring that Defendants' policies, practices, acts, and
16 omissions described in this First Amended Complaint violate Plaintiff's rights under the United
17 States Constitution;

18 3. General damages against GEO Defendants, jointly and severally, in an amount to
19 be proven at trial;

20 4. Special damages against GEO Defendants, jointly and severally, in an amount to
21 be proven at trial;

5. Punitive damages against GEO Defendants, jointly and severally, in an amount to

1 be proven at trial;

- 2 6. Leave to amend this complaint as needed and as required;
- 3 7. Costs and reasonable attorneys' fees in an amount to be proven at trial;
- 4 8. Interest on amounts authorized by law; and
- 5 9. Grant such further relief as the Court deems just and proper.

6 RESPECTFULLY SUBMITTED this April 9, 2018.

7 AMERICAN CIVIL LIBERTIES UNION OF
WASHINGTON FOUNDATION

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1 I declare under penalty of perjury under the laws of the United States of America and the
2 State of Washington that the foregoing is true and correct.

3 DATED this 9th day of April, 2018, at Seattle, Washington.

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5 _____
6 I'sha Willis, *Legal Assistant*

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