

10. Defendant **Michael Dittmann**, upon information and belief, is a United States citizen, who at all times relevant was the warden of CCI.

11. Defendant **James Greer** is, upon information and belief, a United States citizen, who at all times relevant, was the medical director of the Wisconsin Department of Corrections (“DOC”).

12. Defendant **Edward Wall** is, upon information and belief, a United States citizen, and at all times relevant, was the secretary of the DOC.

13. Defendant **Officer Bowar** is, upon information and belief, a United States citizen, and at all times relevant, was a correctional officer at CCI.

14. Defendant **Sergeant Kottka** is, upon information and belief, a United States citizen, and at all times relevant, was a correctional officer at CCI.

15. At all times relevant defendants were each acting under the color of state law.

Factual Allegations

16. The plaintiff, William Teas is a State of Wisconsin prisoner who has diagnoses of and suffers from stenosis, congenital Degenerative Disc Disorder (“DDD”) and significant effacement of the spinal cord. Among other things, he also suffers from para-spinal muscle spasms.

17. Teas first entered the DOC on January 27, 2001.

18. Teas’s medical conditions were made known to each defendant.

19. The plaintiff’s medical conditions are significant and irreversible, but his quality of life can be improved with traditional and non-esoteric treatment, that is, his pain can be effectively managed and his congenital DDD can be slowed.

20. Plaintiff’s functional capacity has been severely limited by the stenosis, congenital DDD and effacement of the spine, even rendering him incapable of minimal (sedentary) activity, at times.

21. Plaintiff suffers from numbing, shooting and unbearable pain, difficulty and at times the inability to effectively defecate, bone grinding with associated radiating pain, and frequent incapacitation from his back “going out” for periods of time which he cannot move for periods of time due to the pain.

22. Plaintiff’s pain has and continues to frequently inhibit his sleep.

23. Plaintiff’s pain and lack of sleep has diminished his ability to concentrate, maintain normal interpersonal relationships and has caused his contemplation of suicide, among other things.

24. Plaintiff has also been, at times, unable to eat meals, exercise, write letters, make phone calls, or otherwise maintain a marginal quality of life.

RULE 18 JOINDER OF CLAIMS

CLAIM 1: DEFENDANTS TENEBRUSO, MASHAK, WHITE AND ANDERSON WERE DELIBERATELY INDIFFERENT AND NEGLIGENT IN FAILING TO PROVIDE TEAS WITH ADEQUATE MEDICAL TREATMENT FOR HIS SERIOUS MEDICAL CONDITIONS.

25. Defendants Tenebruso, Mashak, White and Anderson were made aware of Teas’s conditions of stenosis, DDD, significant spinal effacement and para-spinal muscle spasms, as well as his severe associated pain.

26. Teas wrote Tenebruso, Mashak, White and Anderson repeatedly, asking for their help in getting him to see the doctor, and in some cases, to see a doctor who would properly treat him for the pain he was experiencing and the underlying conditions.

27. Tenebruso, Mashak, White and Anderson were administratively charged with a ministerial duty to ensure that Teas received proper medical treatment for his conditions, including the supervision of scheduling of Teas to see the institution and contracted physicians.

28. Tenebruso, Mashak, White and Anderson repeatedly failed to ensure that Teas was seen in an appropriate amount of time, as his condition and symptoms indicated to them that he needed to be seen after their having been appraised of the Teas’s medical conditions. As a result, repeated and significant lapses in Teas’s medical care occurred, leaving him without proper treatment for his serious pain and underlying medical conditions, each lasting several months at a time.

29. The process of scheduling the physician appointments at CCI was subject to the supervision and review of Tenebruso, Mashak, White and Anderson, as they were the CCI HSU managers. When an inmate writes to them for help in getting a physician appointment, they are then responsible to identify the degree of urgency of the inmate’s request and correlate that

urgency to the scheduling of his appointment with the CCI physician to ensure the inmate received proper medical treatment in an appropriate amount of time.

30. Tenebruso, Mashak, White and Anderson failed to respond appropriately to Teas's many letters requesting their help for the treatment he was not receiving or was being delayed, resulting in the delays that caused and/or exacerbated the injuries complained of herein.

31. When Teas identified the improper medical treatment that defendants Hoffmann and Suliene were each providing him, he informed defendants Mashak, White and Anderson of the medical errors that were occurring in his treatment. Tenebruso, Mashak, White and Anderson failed to take a course of action to identify whether or not the treatment provided by Hoffmann or Suliene was proper, and failed to ensure that the serious medical needs and symptoms that Teas presented to each of these defendants were properly treated.

32. On at least thirteen occasions between June 17, 2010 and September 14, 2012 the plaintiff informed defendant Karen Anderson of his serious medical condition and complained of the neglectful, ineffective and deliberately indifferent care he was receiving from Suliene and Hoffmann. She failed to properly or adequately respond to these complaints with any remedial action, though she was authorized, required and obligated to do so. He complained of the inefficacy of the main management treatment that was prescribed, of the delays in seeing defendants Suliene and Hoffmann, and other areas of the deficient health care he was receiving.

33. On October 10 and 17, 2010 plaintiff informed defendant Tenebruso of his serious medical condition and complained to her of the substandard care, inadequate pain management, being forced to sleep on the floor in spite of medical contraindications and restrictions, yet Tenebruso failed to take any remedial action, though she was authorized, required and obligated to do so.

34. On May 30, 2011 plaintiff wrote a letter to the HSU manager informing her of his serious medical condition and complaining of the inadequate medical care that he was receiving from defendant Suliene. Defendant Nancy White responded but failed to take any action to ensure plaintiff's serious medical needs were met in a timely fashion.

35. Defendants White, Anderson and Tenebruso were each at least Registered Nurses and acted as supervisor of CCI's HSU and were charged with the duty to ensure each patient/inmate was receiving adequate and appropriate care, commensurate to their symptoms

and medical conditions. They were each charged with a duty to oversee the care that defendants Suliene and or Hoffmann provided the plaintiff.

36. Defendants White, Anderson and Tenebruso each could have taken care to investigate the plaintiff's complaints of inadequate medical care, obtain second opinions for the plaintiff and ensure that the care he has receiving was adequate, given the symptoms he presented. They each failed to pursue a thorough investigation and seek a second opinion of his care. Each should also have contacted the BHS Medical Director to review the complaints the plaintiff made regarding the medical care he was receiving from defendants Suliene and Hoffmann.

37. Defendants White, Anderson and Tenebruso each failed to address the delays of medical treatment that plaintiff was forced to endure by both Suliene and Hoffmann. They had a duty to ensure that each inmate was seen in an appropriate amount of time. When plaintiff complained to each of these defendants about the inappropriate delay in obtaining medical treatment, these defendants failed to act in a way that ensured plaintiff received timely care for the serious medical conditions and symptoms he presented, as complained of herein.

38. Defendants White, Anderson and Tenebruso could have directed defendants Suliene and Hoffmann to see the plaintiff when he informed them that he was not being seen for his serious medical conditions and that the delay was causing him additional harm. They each direct all of the staff in HSU to do their jobs in a particular way, including the scheduling of inmates for the physicians, lab draws, off-site appointments, etc.

39. As alleged above, each defendant identified in this claim violated the plaintiff's rights under the Americans with Disabilities and the Rehabilitation Acts.

CLAIM 2: DEFENDANT SULIENE WAS DELIBERATELY INDIFFERENT WHEN SHE FAILED TO ENSURE THAT TEAS'S HOUSING AND OTHER ACCOMODATIONS WERE CONSISTENT WITH THE MEDICAL CARE THAT HIS SERIOUS MEDICAL CONDITIONS REQUIRED.

40. Knowing of and having diagnosed Teas's serious medical conditions of stenosis, DDD, significant spinal effacement and para-spinal muscle spasms, defendant Suliene was made aware before the year 2011 of the reasonable accommodations that Teas's conditions required.

41. Teas's degenerative changes within his spine are significant, irreversible and cause spinal and neural compromise. Teas's stenosis, DDD and effacement significantly and severely limit his functional capacity at times and render him incapable of even minimal (sedentary) activity. Specifically, he has episodes of pain that result in his inability to control his bowels or bladder, blinding pain that shoots or radiates throughout his extremities, the inability to control muscles, and the inability to conduct himself in the course of daily life activities.

42. Plaintiff repeatedly requested accommodations for his medical conditions in the form of a mattress and pillow that was medically appropriate and would help with symptoms associated with his conditions. Plaintiff was denied these requests for a medically necessary and appropriate pillow and mattress by defendants Dittmann, Hoffmann, Suliene, Weber, Mashak, and Greer.

43. At this time defendant Suliene could have, but did not, order that Teas receive a no-floor placement restriction, a medically appropriate mattress or pillow.

44. In forcing Teas to sleep on the floor, or nearly on the floor, defendant Suliene caused him serious pain, exacerbation of his medical conditions and the loss of liberty to be mobile. He experienced extreme pain, difficulty in performing daily life activities and was unable to do much other than lie in his bed, writhing in pain, as a result of this repetitive and deconstructive forced physically constrictive series of activities that is associated with the entry into and extraction from his bed. This exacerbation of his conditions caused by him being forced to sleep on or near the floor.

45. The standard prison issued pillow that Teas was provided had no medical classification. He requested defendants Suliene and Hoffmann prescribe a better pillow which allowed him to properly align his spine and head as he slept, but was told he was in prison, that he had to deal with it, and was told to use a bath towel.

46. As alleged above, each defendant identified in this claim violated the plaintiff's rights under the Americans with Disabilities and the Rehabilitation Acts.

CLAIM 3: DEFENDANTS NICKEL, BOODRY AND ASHWORTH VIOLATED TEAS'S RIGHTS UNDER THE AMERICANS WITH DISABILITIES ACT WHEN THEY FAILED TO PROVIDE REASONABLE ACCOMODATIONS FOR HIS DISABILITY.

47. Before March 2012 defendants Nickel, Boodry and Ashworth were made aware of Teas's painful medical conditions and diagnoses of stenosis, DDD and significant effacement of the spinal cord, also that he suffers from para-spinal muscle spasms.

48. Upon information and belief defendant Ashworth was the acting ADA Coordinator of CCI in March 2012, when Teas was placed into DS1¹.

49. Teas informed Boodry, Nickel and Ashworth of his disability and requested accommodation for his disability in the form of a raised bunk that did not cause him significant pain or further injury, but none relented.

50. The options available to defendants Nickel, Boodry and Ashworth were plentiful, including but not limited to cell #43, which was in DS1 and had a higher bunk, medical cells in the Reception and Orientation unit, any of the beds in the DS2 Segregation unit, which were all of normal stature, and among other things, these defendants could have effectuated a transfer of Teas to another institution that was better equipped to house disabled segregated inmates.

51. Teas asked for, but was denied, the reasonable accommodation request forms by Officer Bowar, who stated that the forms were not offered to inmates in DS1.

52. With only one cell in DS1 that has an elevated bunk of approximately 19", DS1 is not capable of housing multiple inmates with disabilities that require bunk of normal height, denying multiple inmates the simultaneous opportunity to be afforded this accommodation.

53. Defendants Nickel, Boodry and Ashworth failed to properly respond to Teas's disability by accommodating the specific medical accommodations his disability required, when these defendants were presented with them.

54. As alleged above, each defendant identified in this claim violated the plaintiff's rights under the Americans with Disabilities and the Rehabilitation Acts.

CLAIM 4: DEFENDANTS SULIENE AND HOFFMANN WERE DELIBERATELY INDIFFERENT TO TEAS'S SERIOUS MEDICAL NEEDS WHEN THEY FAILED TO PROPERLY AND ADEQUATELY TREAT HIS CHRONIC AND SERIOUS DEBILITATING PAIN.

¹ DS1 ("Disciplinary Separation Unit 1") is now named RH1 ("Restricted Housing Unit 1")

55. Plaintiff Teas presented to defendants Suliene and Hoffmann with symptoms of degenerative disc disease, significant effacement of the spinal cord with para-spinal muscle spasms, and associated severe pain.

56. During their respective tenures Suliene and Hoffmann saw Teas many times.

57. Both Suliene and Hoffmann diagnosed Teas's congenital conditions of degenerative disc disease, significant effacement of the spinal cord, and para-spinal muscle spasms.

58. Suliene and Hoffmann prescribed medications to treat Teas's pain. These defendants were aware and knew these medications to be ineffective before they prescribed it for Teas's symptoms and conditions. Suliene stated several times that Teas had to deal with the pain and to 'be a man.'

59. NSAIDS are known to defendants Hoffmann and Suliene to be ineffective in the treatment of neuropathic pain.

60. The medications Suliene and Hoffmann each prescribed were ineffective in treating Teas's serious pain and he informed them of this on multiple subsequent occasions and he explained that to Suliene and Hoffmann that this medication was not effectively treating his pain.

61. Hoffmann was aware that ibuprofen is not an effective pain medication for the treatment of neuropathic pain.

62. Suliene was aware that ibuprofen is not an effective pain medication for the treatment of neuropathic pain.

63. Teas informed defendants Suliene and Hoffmann that the pain caused serious and severe implications in his life, including the inability to defecate properly, control his bladder, partake in meals, frequent sleep deprivation, limited mental capacity, and interpersonal relationship issues as well as the contemplation of suicide to escape the pain. The plaintiff also prematurely ended his visits with his family because he was unable to endure the pain as a proximate consequence of the ineffective pain treatment Suliene and Hoffmann prescribed.

64. In spite of Teas's complaints that the pain he was experiencing was not only serious and associated with the congenital, chronic and serious medical conditions he had, and that the pain was serious enough to affect his life so severely that he was contemplating suicide,

neither Suliene nor Hoffmann prescribed any course of treatment for his serious and debilitating pain which they knew to be effective in treating Teas's symptoms and conditions.

65. Both Suliene and Hoffmann stated their understanding of the pain Teas was in, but explained that they were unwilling to prescribe Teas narcotics in the prison. They also failed to pursue other courses of treatment that were known to be or could have been effective in treating Teas's pain.

66. During their tenure, Hoffmann and Suliene, as medical doctors of CCI, failed for months to properly treat Teas's serious and debilitating pain.

67. As alleged above, each defendant identified in this claim violated the plaintiff's rights under the Americans with Disabilities and the Rehabilitation Acts.

CLAIM 5: DEFENDANTS SULIENE AND HOFFMANN WERE DELIBERATELY INDIFFERENT TO TEAS'S SERIOUS MEDICAL CONDITIONS WHEN THEY FAILED TO SEEK CHRONIC PAIN MANAGEMENT FOR HIS SERIOUS PAIN.

68. Plaintiff Teas was diagnosed with, and was supposed to be treated by Hoffmann and Suliene for congenital stenosis, DDD and significant effacement of the spinal cord as well as para-spinal muscle spasms and severe pain.

69. The Wisconsin DOC and CCI have a policy of maintaining "Chronic Pain Management Plans" for inmates, but both Suliene and Hoffmann failed to write or cause to have written any such plan for Teas's care. The pain he experienced was identified by both Suliene and Hoffmann as serious, chronic and lasting more than three months.

70. Between 2010 and 2013, Teas wrote to both Hoffmann and Suliene many times to complain not only of the pain he experienced, that the treatment he was receiving for the pain was ineffective, but also to request a pain management care plan.

71. Neither Hoffmann nor Suliene ever effectuated a plan to properly manage or treat his chronic pain, either directly or by the action of prescribing effective treatment.

72. At one point, Suliene – while of the understanding that ibuprofen is not a medication that is effective in the treatment of neuropathic pain – prescribed Teas ibuprofen for the neuropathic pain.

73. Defendants Hoffmann and Suliene prescribed Nortryptaline, Amitryptaline, Maloxicam, Gabapentin, Naproxen and Acetaminophen knowing they would not be effective, and while of the opinion that they would not adequately treats symptoms of serious and chronic pain.

74. Prior to the order being written for these medications, Teas informed Suliene and Hoffmann that the medications they prescribed were not effective for the treatment of the pain in his back, neck, extremities, and body and Suliene and Hoffmann failed to resolve the issue by prescribing medication that they were made aware and knew would be ineffective.

75. Both defendants Hoffmann and Suliene could have, but did not write or have written, a chronic pain management plan for the chronic and seriously inhibiting pain that Teas suffered from, and as a result, he suffered serious and irreparable injuries.

76. As alleged above, each defendant identified in this claim violated the plaintiff's rights under the Americans with Disabilities and the Rehabilitation Acts.

CLAIM 6: DEFENDANTS BOODRY, ASHWORTH, NICKEL, WHITE, ANDERSON, KOTTKA AND BOWAR WERE DELIBERATELY INDIFFERENT TO TEAS'S SERIOUS MEDICAL CONDITIONS AND DISABILITIES WHEN THEY FAILED TO ACCOMMODATE HIS PRESCRIBED MEDICAL RESTRICTIONS.

77. Plaintiff Teas was diagnosed with, and treated for, stenosis, DDD and significant effacement of the spinal cord as well as para-spinal muscle spasms. This was made known to Defendants Boodry, Ashworth, Nickel, White, and Anderson. In 2012 these defendants were aware that his conditions had restrictions preventing him from being forced to sleep on or near the floor, and that this housing arrangement (in DS1) contraindicated his medical condition and would likely injure him further or exacerbate his medical conditions.

78. CCI has two segregation units, one for more severe infractions that is called Disciplinary Separation Unit 1 (DS1), the other, for less severe infractions, called Disciplinary Separation Unit 2 (DS2)².

79. When an inmate is placed in DS1, he is almost always forced to sleep on a concrete or metal bunk that is approximately 4-5" from the floor. There is only one cell of the 48

² The Disciplinary Segregation Units have recently been renamed to Restrictive Housing Units

cells in DS1 that is of normal height, this is cell # 43. The height for normal bunks is about 19" or more.

80. CCI uses cells on other non-segregation units for segregation-status inmates when there is a need for a bed that is of normal height. Defendants Boodry, Ashworth, Nickel, and other CCI staff members also regularly used cell # 43 in DS1 for inmates who were in a suicide observation status but did not have with physical limitations or disabilities.

81. On March 14, 2012 Teas was placed in DS2 in an alleged non-punitive temporary lock-up status for allegations of a disciplinary infraction. In DS2 Teas was forced to spend 12 days sleeping the floor. He was given a mattress and placed on the floor of the cell, which had only one bunk and another inmate already occupied that bunk. His medical condition worsened, and in spite of his informing defendant Anderson that he should not be, and should not have been placed on the floor, she willfully denied his plea to be placed in a bunk to reasonably accommodate his disabilities.

82. The conditions that Teas was forced to sleep in during the 12 days that he was forced to sleep on the floor were abhorrent. He had to endure not only the pain of his medical conditions exacerbated by sleeping on the floor, but also insect infestation, dirt, food and urine splashing his bedding

83. On March 26, 2012, Teas moved to the DS1 unit, into a cell (#14) that had a bed which did not accommodate his serious medical condition, as the bed was only inches off of the floor.

84. Defendant Officer Bowar placed Teas into this cell. Teas explained to Bowar that he could not be placed in the cell due to his medical conditions, and that doing so would result in his further injuries. In spite of this, Bowar persisted; placing Teas in the cell that he was made aware would not accommodate Teas's medical condition, and would result in injury.

85. Teas informed and complained to defendants Ashworth, Nickel, Kottka and Anderson of his medical conditions, and how his medical conditions required a normal height bunk, not on the floor. He complained to these defendants that he needed to be moved and that his pain was getting worse. These defendants ignored his pleas, leaving him on the floor for 24 days.

86. Teas had an extended conversation with defendant Kottka regarding his placement in cell 14, which did not accommodate his medical needs and caused him pain and an

exacerbation of his medical condition. Kottka failed to take any remedial action and instead denied Teas's request to be moved to cell with suitable accommodations.

87. Teas filed an inmate complaint. On the date the complaint was received, April 20, 2012, a unit sergeant, at the direction of defendant Ashworth, placed Teas in Cell #43, which has a bunk of normal height.

88. On May 8, 2012 defendant Boodry moved Teas from the cell with an ordinary height bed to a cell on an upper tier. The cell (#42) he was moved into had a bed that was only inches off of the floor. Teas informed defendant Boodry that he should not be moving him to this cell because of his medical condition and that the bed that was nearly on the floor would injure him, and would make his pain worse. Boodry ignored Teas's pleas, placing him in the cell and further exacerbating his medical conditions, and resulting in serious pain.

89. The issue of inmates sleeping on the floor is not new to CCI's administration and defendants Boodry, Ashworth, Nickel, White and Anderson were made aware of the overcrowding and the impact it has had on other inmates with similar conditions to that of the plaintiff. Many other inmates have and continue to complain of the overcrowding in DS2, and defendants Boodry, Ashworth, Nickel, White and Anderson have known about the conditions but have failed to remedy the problem to avoid the injuries Teas suffered while forced to sleep on or nearly on the floor as the result of said overcrowding.

90. Overcrowding in CCI's DS2 unit has been an issue for more than 10 years, with inmates being forced to sleep on the floor for years and CCI administration has failed to correct or prevent this problem. Upon information and belief, CCI administration has forced at least one inmate to sleep on the floor in DS2 every day for at least 10 years.

91. As alleged above, each defendant identified in this claim violated the plaintiff's rights under the Americans with Disabilities and the Rehabilitation Acts.

Causes of Action

92. Plaintiff realleges and incorporates herein by reference ¶¶ 1-73, *supra*.

93. Defendants Mashak, White and Anderson were deliberately indifferent and negligent for not procuring proper medical treatment for Teas's serious medical conditions as alleged in ¶¶ 16-39, *supra*.

94. Defendant Suliene was deliberately indifferent when she failed to ensure that Teas's housing and other accommodations were consistent with the medical care that his serious medical conditions required as alleged in ¶¶ 16-24 and 40-46, *supra*.

95. Defendants Nickel, Boodry and Ashworth violated Teas's rights under the Americans with Disabilities Act when they failed to provide Teas reasonable accommodations for his disability as described in ¶¶ 16-24 and 47-54, *supra*.

96. Defendants Suliene and Hoffmann were deliberately indifferent to Teas's serious medical needs and committed Medical Malpractice when they failed to properly and adequately treat his chronic and serious debilitating pain as described in ¶¶ 16-24 and 55-67, *supra*.

97. Defendants Suliene and Hoffmann committed Medical Malpractice and were deliberately indifferent to Teas's serious medical conditions when they failed to seek chronic pain management for his serious pain as alleged ¶¶ 16-24 and 68-76, *supra*.

98. Defendants Boodry, Ashworth, Nickel, Kottka, White and Anderson were deliberately indifferent to Teas's serious medical conditions and disabilities when they failed to accommodate his prescribed medical restrictions as alleged in ¶¶ 16-24 and 77-91, *supra*.

Prayer for Relief

WHEREFORE, plaintiff William Teas requests that the court grant the following relief:

- a. A jury trial is demand on all contested claims;
- b. Issue a declaratory judgment stating the actions of the defendants described herein are unlawful and violated the plaintiff's rights under the Wisconsin and United States Constitution, and the Laws and Treaties of the United States of America;
- c. As to individuals sued in their official capacities, order preliminary and permanent injunctive relief as the court deems warranted and just;
- d. Award compensatory and punitive damages commensurate with their actions, inactions, derelictions, and willful conduct in an amount to be determined by jury; and

e. Award for all costs, fees, and other such relief the Court deems just and equitable.

Dated this 29 day of November, 2016.

Signed:

William Teas

William Teas #379021
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Complaint written and typed in its entirety
on this ___ day of _____ by:

Signed:

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