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October 5, 2017 10:04 AM

CLERK OF COURT  
U.S. DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
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**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION**

**2:17-cv-167**

Paul L. Maloney, US District Judge  
Timothy P. Greeley, US Magistrate Judge

**MARCUS D. MAYS,**

Plaintiff,

**Case No.**

v.

**Honorable**

**UNKNOWN C/O ~~PYNNONEN, JAL~~**

**\*JURY TRIAL DEMANDED\***

Defendants.

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**42 U.S.C. § 1983 PRISONER CIVIL RIGHTS COMPLAINT**

**By: Marcus D. Mays (#218101)**  
Plaintiff, In Pro Per  
Baraga Correctional Facility  
13924 Wadaga Road  
Baraga, Michigan 49908-9204

In the United States District Court  
For the Western District of Michigan

MARCUS D. MAYS,

NEW ACTION \_\_\_\_\_-CV-\_\_\_\_\_

PLAINTIFF,

HON. \_\_\_\_\_

(Enter above the full names of all plaintiffs, including prisoner number, in this action.)

v.

UNKNOWN C/O PYNNONEN,

Defendant(s).

(Enter above the full name of the defendant or defendants in this action.)

COMPLAINT

I. Previous Lawsuits

**CAUTION: The Prison Litigation Reform Act has resulted in substantial changes in the ability of incarcerated individuals to initiate lawsuits in this and other federal courts without prepayment of the required \$400 filing fee. Accurate and complete responses are required concerning your litigation history. Generally, a plaintiff's failure to accurately and completely answer the questions set forth below will result in denial of the privilege of proceeding *in forma pauperis* and require you to pay the entire \$350 filing fee regardless whether your complaint is dismissed.**

A. Have you ever filed a lawsuit while incarcerated or detained in any prison or jail facility? Yes  No

B. If your answer to question A was yes, for each lawsuit you have filed you must answer questions 1 through 5 below. Attach additional sheets as necessary to answer questions 1 through 5 below with regard to each lawsuit.

1. Identify the court in which the lawsuit was filed. If it was a state court, identify the county in which the suit was filed. If the lawsuit was filed in federal court, identify the district within which the lawsuit was filed.

U.S. Dist. Court, W.D. Mich., Nor. Div. 2:15-cv-154  
(U.S. Dist. Court, W.D. Mich., Nor. Div. 2:15-cv-95 still in screening process in court)

2. Is the action still pending? Yes  No

a. If your answer was no, state precisely how the action was resolved:

3. Did you appeal the decision? Yes  No

4. Is the appeal still pending? Yes  No



a. If not pending, what was the decision on appeal?

5. Was the previous lawsuit based upon the same or similar facts asserted in this lawsuit? Yes  No

If so, explain: Excessive force, deliberate indifference.

(Last Revised: April 2006)

II. **Place of Present Confinement** Baraga Correctional Facility, 13924 Wadaga Rd. Baraga, MI 49908

If the place of present confinement is not the place you were confined when occurrence that is subject of instant lawsuit arose, also list the place you were confined:

III. **Exhaustion of Administrative Remedies**

**CAUTION: You are required by federal law to exhaust your available remedies on any action brought with respect to jail, prison, or other correctional facility conditions before bringing an action in under 42 U.S.C. § 1983. See 42 U.S.C. § 1997e(a). In order to demonstrate exhaustion, you MUST ATTACH ALL DOCUMENTS EVIDENCING EXHAUSTION OF REMEDIES, including Step I, II and III grievances and grievance responses.**

**If you are unable to provide copies of the grievances, you must provide the Court with an affidavit describing the issues set forth in the Step I grievance, the people named in the Step I grievance and the response you received at each level of review.**

A. Is your place of confinement a facility operated by the Michigan Department of Corrections? Yes  No

B. If your answer to A was yes, did you file a grievance concerning the facts set forth in this complaint? Yes  No

1. If your answer is no, explain why a grievance was not filed:

2. If your answer is yes, list the grievance number(s) and the date listed as "Today's Date" box on the Prisoner/Corrections Client Grievance Form: **AMF-17-08-01982-28E, 5-25-17; AMF-17-06-1437-12E4, 5-25-17.**

3. What was the decision upon your grievance at Step I? **AMF-17-08-01982-28E, rejected as untimely; AMF-17-06-1437-12E4, denied.**

C. If your answer to A and B are yes, did you appeal the Step I decision? Yes  No

1. If your answer above was yes, what was the Step II decision? **AMF-17-08-01982-28E rejection upheld; AMF-17-06-1437-12E4 denied.**

Did you appeal to Step III? Yes  No

2. If your answer above was yes, what was the Step III decision? **AMF-17-08-01982-28E rejection upheld; AMF-17-06-1437-12E4 denied.**

D. Does your complaint concern a misconduct charge filed against you? Yes  No  Please read complaint.

1. Did you have an administrative hearing on the misconduct charge? Yes  No

If yes, what was the hearing officer's decision? **Guilty. On 5-29-17 I was written a falsified class II insolvency misconduct out of retaliation, see exhibit F-22. I also received a falsified threatening behavior class I misconduct on 4-7-17 out of retaliation, see exhibit F-23.**

2. Did you request an administrative hearing? Yes  No

If you did request an administrative rehearing, what was the decision rendered upon rehearing?

3. After rehearing, did you appeal the decision in one of the circuit courts for the State of Michigan? Yes  No

a. If yes, what was the decision of the circuit court?

b. Did you appeal the decision of the circuit court? Yes  No

If yes, state the decision of the Michigan Court of Appeals and Michigan Supreme Court:

E. If your claim concerns confinement within a facility not operated by the Michigan Department of Corrections, please state in detail the steps you have taken to exhaust your available state remedies prior to filing this lawsuit:

F. If you have taken any other steps to exhaust your state remedies, please describe in detail what steps you have taken:

In item A below, place your name in the first blank and place your present address in the second blank. Do the same for additional plaintiffs, if any.

A. Name of Plaintiff

**Marcus D. Mays**

Address Baraga Correctional Facility, 13924 Wadaga Rd., Baraga, MI 49908-9204

In Item B below, place the full name of the defendant in the first blank, his or her official position in the second blank and his or her place of employment in the third blank. Use Item C for the names, positions and place of employment of all additional defendants.

Attach extra sheets as necessary. **State whether you're are suing each defendant in an official or personal capacity.**

B. Defendant Unknown Pynnonen is employed as a Corrections Officer (C/O)

Who is being sued in his official and personal capacity

at Baraga Correctional Facility (AMF), 13924 Wadaga Road, Baraga, Michigan, 49908-9204

C. Additional Defendants are all being sued in their official and personal capacities,

Defendant, **Unknown Coronado**, is a C/O at AMF who, at all times mentioned in this complaint, held the rank of C/O and was acting under color of state law.

Defendant, **Unknown Perala**, is a C/O at AMF who, at all times mentioned in this complaint, held the rank of C/O and was acting under color of state law.

Defendant, **Unknown Massie**, is a C/O at AMF who, at all times mentioned in this complaint, held the rank of C/O and was acting under color of state law.

Defendant, **Unknown Geneman**, is a C/O at AMF who, at all times mentioned in this complaint, held the rank of C/O and was acting under color of state law.

Defendant, **Unknown Anderson**, is a C/O at AMF who, at all times mentioned in this complaint, held the rank of C/O and was acting under color of state law.

Defendant, **Unknown Grub**, is a C/O at AMF who, at all times mentioned in this complaint, held the rank of C/O and was acting under color of state law.

Defendant, **Unknown Wealton**, is a C/O at AMF who, at all times mentioned in this complaint, held the rank of C/O and was acting under color of state law.

Defendant, **Elizabeth M. Corrigan**, is a nurse at AMF who, at all times mentioned in this complaint, held the rank of nurse and was acting under color of state law.

Defendant, **Sabrina Snyder**, is a registered nurse at AMF who, at all times mentioned in this complaint, held the rank of supervisor registered nurse and was acting under color of state law.

Defendant, **Unknown Ryela**, is a registered nurse at AMF who, at all times mentioned in this complaint, held the rank of registered nurse and was acting under color of state law.

Defendant, **Unknown Usitalo**, is a registered nurse at AMF who, at all times mentioned in this complaint, held the rank of registered nurse and was acting under color of state law.

Defendant, **Nicole Sunburg**, is a registered nurse at AMF who, at all times mentioned in this complaint, held the rank of registered nurse and was acting under color of state law.

Defendant, **David Fingan**, is a registered nurse at AMF who, at all times mentioned in this complaint, held the rank of registered nurse and was acting under color of state law.

~~XXXX~~  
DEFENDANT KRISTINE NYQUIST IS A PHYSICIAN ASSISTANT AT AMF WHO AT ALL TIMES MENTIONED IN THIS COMPLAINT, HELD THE RANK OF PHYSICIAN ASSISTANT (P.A.) AND WAS ACTING UNDER THE COLOR STATE OF LAW

V. Statement of Claim

State here, as briefly as possible, the facts of your case. Describe how each defendant is personally involved. Include also, the names of other persons involved, dates and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Use as much space as you need. Attach extra sheets if necessary.

1. On or about 11-21-12, Plaintiff Mays arrived at AMF.

2. On 5-25-17, while being escorted back from health care x-ray lab by Unknown wing officer Anderson and Unknown health care officer Wealton, upon being escorted inside of 3-block segregation unit entrance Plaintiff Mays was met by other officers who were already inside of the hallway and was beaten down by unknown C/O Coronado while in restraints. OFFICERS HERE AT AMF HAS A HISTORY OF ASSAULTING PRISONERS IN ISOLATED HALLWAYS SEE: UNJUSTIFIED DISTRICT COURT CLAIMS OF EXCESSIVE FORCE NOW PENDING IN COURT SEE 2:15-cv-154 MAXCU MAYS VS KEVIN HEMMEL

3. Plaintiff Mays was repeatedly beaten, punched and kicked through the use of unjustified force and multiple assaults, also at the hands of C/O unknown Perala which was unprovoked, C/O unknown Massie, C/O unknown Geneman and the escorting C/O unknown Anderson and unit officer C/O unknown Pynnonen.

4. C/O Pynnonen stated, as he beat, punched and kicked Plaintiff Mays, that, "this is for all those damn lawsuits you keep filing on our co-workers." C/O Geneman then stated, "we stick together here at Baraga." As he and the other officers continued to beat and kick Plaintiff Mays, as the two officers C/O Grub and C/O Wealton stood and watched and laughed while Plaintiff Mays begged for help but was intentionally ignored by C/O Grub and C/O Wealton. (REDACTED).

5. C/O Perala then stated, "you'll think twice before you file another lawsuit on me", as he repeatedly punched Plaintiff Mays supporting AMF-16-11-3032-28E grievance for excessive force and deliberate indifference on this officer. See AMF-16-10-2673-17E SEE EXHIBIT H-1 AND C-1 OF GRIEVANCE SHOWING HE HAS A CONTINUOUS PATTERN OF ASSAULTING PRISONERS AND VIOLATING PRISONERS' CONSTITUTIONAL RIGHTS

6. Also see pending civil action that is on file in the U.S. District Court 2:17-cv-95, the Court is still screening. Also see supporting misconduct for threatening behavior, falsified on Plaintiff Mays on 4-7-17 by C/O Perala's good friend C/O Geneman. Exhibits F-23, F-24, F-25, misconduct ticket and misconduct hearing report.

7. On this same day Plaintiff Mays told R.N. Elizabeth M. Corrigan about the beating he had received during routine rounds and that he was really hurting from his head and swollen jaw injuries, and that his body was also hurting from continuously being punched by officers while in handcuffs. (SEE: STEP 1-3 GRIEVANCE OF AMF-17-08-1982-28E AND AMF-17-06-1487-1284 EXCESSIVE FORCE)

8. After Plaintiff Mays told R.N. Corrigan about the beating he had received and told her of his head and jaw injuries, especially from headaches, she stated, "I don't care if they kill you Mays, you filed a lawsuit on me!" See deliberate indifference claim on file in the U.S. District Court, 2:17-cv-95 (the Court is still screening this lawsuit). OF EXCESSIVE FORCE AND DELIBERATE INDIFFERENCE ON THESE DEFENDANTS

9. Plaintiff Mays was denied medical treatment by R.N. Corrigan as she kept passing out medication after leaving his cell knowing that he was suffering and in pain due to the injuries inflicted upon him by the (use of excessive force) by officers on 5-25-17. The law is clearly established, see medical kite Exhibit K-1, this nurse's conduct was unprofessional and clearly retaliatory, which is cruel and unusual punishment in violation of the Eight Amendment.

10. On this same day, after being beaten down by C/O's Pynnonen and Coronado, Plaintiff was told by these two officers that if he filed a grievance about the incident that they would drop his Incentive Program Stage. (The Incentive Program is a program designed to reduce the overall prison population of inmates in

segregation for good behavior). These officers stated, in no uncertain terms, that they would drop Plaintiff Mays' stage and write him (i.e. falsify) a misconduct. These officer's conduct was clearly retaliatory. C/O's Pynnonen and Coronado's conduct and pattern of physical abuse and threats to commit more retaliatory acts by using their position as officers for personal gain to mistreat an inmate was due to Plaintiff Mays' protected right to file a grievance and also filing lawsuits on their co-workers. See Exhibit grievance step I-III, AMF-17-08-1982-28E.

11. On 5-29-17, C/O Pynnonen did what he stated he was going to do by dropping Plaintiff Mays' stage and falsifying a misconduct ~~(stage)~~ Plaintiff Mays' protected right to file a grievance on him and the other officers for unjustified excessive force and food poisoning. (See supporting grievance exhibit step I-III AMF-17-08-1982-28E). This is a continuous retaliatory problem that Plaintiff Mays has had with AMF prison officials since Plaintiff Mays has been at AMF with officers and health care friends and family members, especially of Defendants now in Court due to pending lawsuit on file. See 2:15-cv-154; 2:17-cv-95; see also health care grievance exhibits step I-III, AMF-17-08-1437-12E4. ALSO SEE FALSIFIED MISCONDUCT EXHIBIT F-22-A AND EXHIBIT MISCONDUCT HEARING REPORT F-22-B

12. On 5-25-17, around lunchtime, C/O's Anderson and Pynnonen passed out food trays. Upon eating his food tray, which consisted of fish and potatoes, Plaintiff Mays told C/O Anderson that his food tasted like disinfectant cleaner, which not only had his throat burning but Plaintiff Mays was throwing up specks of blood. The officers at AMF are known for poisoning prisoner's food trays. Note: Plaintiff Mays had this same problem with C/O Kevin Hemmila in the same segregation unit, 3-block, on November 28, 2012, District Court file 2:15-cv-154, pending lawsuit filed on Defendant Kevin Hemmila, which Plaintiff Mays was never treated for. See *Marcus Mays v. Kevin Hemmila, et. al.*

13. C/O's Pynnonen and Anderson stated, while coming down the hallway, "Fuck your throat. We don't care if it burning, fucking nigger!" Plaintiff Mays made it clear to these two prison officials that his throat was burning and that he was throwing up blood. C/O Pynnonen stated, "How long do you think you're going to keep filing lawsuits on our co-workers around here? This is why we beat your fucking ass!" as Plaintiff Mays requested health care and needed medical attention, he was still denied. Both officers stated, "Health care is not going to call you out, let alone help your burning bloody throat Mays!" These officers acted with specific intent to retaliate with no other purpose then to inflict serious harm by using unjustified retaliatory excessive force and then poisoned Plaintiff Mays' food tray with the specific intent to cause serious harm all ~~due~~ to Plaintiff Mays' protected constitutional right to file lawsuits, along with Elizabeth M. Corrigan, the registered nurse.

14. The law was clearly established on 5-25-17, Plaintiff Mays was never called out that day by AMF health care nurses that day or the following days for those injuries. (See AMF-17-08-1982-28E, step I-III grievance exhibit). ALSO (SEE AMF-17-08-1437-12E4) OF DELIBERATE INDIFFERENCE -> STEP I-III GRIEVANCE

15. The head ~~(officials)~~ <sup>(PRISON)</sup> AMF were well aware of what took place on 5-25-17, but tried to cover up the unjustified use of excessive force and food poisoning injuries, and AMF step I Grievance Coordinator Thomas LaPlante refused to process Plaintiff Mays' grievances in a timely manner after he intentionally ignored all grievances and kites Plaintiff Mays sent trying to exhaust his administrative remedies, which caused Plaintiff Mays to file a preliminary injunction due to Mr. LaPlante's steadfast refusal to process Plaintiff Mays' grievances in a timely manner, and when Plaintiff Mays did receive a response it was rejected as untimely. See preliminary injunction/TRO filed by Plaintiff Mays on AMF step I Grievance Coordinator and supporting declaration along with unanswered grievance exhibit on file in the U.S. District Court under the Honorable Judge Gordon J. Quist. Plaintiff Mays was unable to ~~(file)~~ <sup>(FILE)</sup> civil action on Mr. LaPlante because he completely refused to process all grievances written against him due to a continuous pattern of not allowing Plaintiff Mays to process and exhaust his administrative remedies for excessive force and food poisoning on 5-25-17. See Court docket on file in the U.S. District Court 2:15-cv-154, *Marcus Mays v. Kevin Hemmila, et. al.*

20. On 5-25-17, during afternoon med passing rounds, Petitioner again made it clear to R.N. Elizabeth M. Corrigan that he was in extreme pain from the excessive force injuries due to the beating he received and Plaintiff Mays told her about how his food tray had been tampered with by C/O's Anderson and Pynnonen during lunch and that his throat was burning and that he was spitting up specks of blood. Ms. Corrigan stated, "Fuck you!" and kept passing out medication to other prisoners on my wing. See grievance exhibit AMF-17-06-1437-12E4, step I-III.

21. On 5-25-17, during routine supervisory rounds, Plaintiff Mays told Head Nurse Supervisor Sabrina Synder about his excessive force injuries, he told her his head was hurting and showed her his swollen jaw. He then showed her the specks of blood he was spitting up and told her that his throat was burning. She stated, "You look fine to me." and kept doing her rounds, which is cruel and unusual punishment and deliberate indifference to a serious medical need, this law is clearly established. ON 5-25-17.

22. On 5-25-17 on second shift, Plaintiff Mays made it clear to R.N. Unknown Ryela that he was suffering from injuries sustained earlier in the day through the C/O's use of excessive force against him, and he showed her his swollen jaw and told her that he was in extreme pain from headaches and that his throat was burning due to two of the same officers that had beaten him earlier on first shift poisoning his food tray at lunch that had him spitting up ~~specks~~ of blood. Plaintiff Mays was still refused any medical treatment. See exhibit grievance AMF-17-06-1437-12E4, Step I-III.

23. On 5-26-17, Plaintiff Mays gave R.N. Unknown Usitalo a health care kite and showed her his swollen jaw and told her that his head was still hurting from headaches and that his throat was burning and he was spitting up blood from food poisoning and excessive force/beating. Plaintiff Mays was never called out that day for medical treatment for these injuries. The law was clearly established, on 5-26-17 these nurses acted with the specific intent to cover up the use of excessive force by staff and food poisoning injuries, and to this day Plaintiff Mays' throat is still sore and burning which has never been treated. See medical kites sent K-1 through K-37 and medical response from health care (K-38 and K-39 are just supporting medical grievance exhibit showing ongoing deliberate indifference.) see also grievance exhibit AMF-17-06-1437-12E4. Step I-III

24. On 5-27-17 during first shift med rounds, Plaintiff Mays gave R.N. Nicole Sunburg a medical kite, told her that his jaw was hurting, showed her his swollen jaw, told her that his head was hurting from continuous headaches due to the fact that officers had beaten him, and told her that his throat was burning and was spitting up blood because two of the officers that had beaten him had also poisoned his food tray. Plaintiff Mays was still denied medical treatment, and was never called out. These nurses were well aware of Plaintiff Mays' pain and suffering and refused him medical treatment.

25. On 5-27-17 during second shift med rounds, Plaintiff Mays showed R.N. David Fingan the speck of blood he was spitting up, his swollen jaw, and told him that his head was hurting really bad. R.N. Fingan stated, "You ~~BE A BIT OF SHIT~~." Plaintiff Mays told him all this happened due to the officers beating him and poisoning his food. R.N. Fingan stated, "A little ass whipping ain't going to hurt you Mays." R.N. Fingan then laughed and said, "and I hope that you choke on that blood your spitting up and die."

26. On 5-28-17, Plaintiff Mays told R.N. Usitalo that he was never called out about his serious medical injuries. She stated, "That's too bad, you were supposed to be called out by R.N. Nicole Sunburg."

27. On 5-28-17 during second shift med rounds, Plaintiff Mays again made his injuries clear to R.N. Fingan who stated, "You filed a grievance on me and the P.A. on 12-23-16. Damn your fucking injuries!" (See supporting grievance exhibit, AMF-17-01-46-00046-12d3 step I and continuation of step I page 2 of grievance). It became very clear that health care and prison officials will retaliate and do whatever it takes to cover up the excessive force and food poisoning injuries that Plaintiff Mays had sustained, not just for their fellow comrades, but for their own personal reasons. Never the less, it is still considered deliberate indifference



to a serious medical need. Plaintiff Mays was told by R.N. Fingan, "None of our nurses will allow you to see a doctor, and you can't see a doctor without our approval."

28. On 6-2-17, after the sending of repeated medical kites, Plaintiff Mays was called out by Nurse Supervisor Sabrina Synder and Nurse Supervisor Arron Jeffrierys, and told by Ms. Synder that as far as she was concerned he had no injuries.

29. On 6-4-17, Plaintiff Mays told R.N. Nicole Sunburg that his head and jaw were really hurting and that he was still spitting up specks of blood. Plaintiff Mays was still refused treatment and was told by her that he wasn't going to see any doctor as she laughed and walked away with the assaulting officer C/O Pynnonen, who beat me down along with his other officers and then poisoned my lunch food tray on 5-25-17.

30. On 6-5-17, Plaintiff Mays was called out and taken to the unit 3 health care room in segregation by 3 of the officers who assaulted him on 5-25-17, C/O's Anderson, Coronado, and Pynnonen (who also poisoned his food tray), and were now escorting him to health care. As C/O's Pynnonen and Coronado laughed C/O Pynnonen stated, "We always got a way to cover up when we whip a prisoner's ass. The P.A. is not going to help you any more than the nurse did. You still spitting up blood? We tried to break your fucking jaw and knock your fucking head off your shoulders you little spotted bitch."

31. When Plaintiff Mays came into the medical exam room the P.A., Ms. Kristine Nyquist, stated, "You're the same spotted up fucker who wrote that grievance on me and two other staff members. I told you that if you didn't sign off of that grievance you wouldn't receive any medical treatment from me. Nurse Fingan told you to sign off too, and now you bring your ugly, spotted up ass in here thinking that I'm going to treat you. I can speak for the whole staff, we are not going to treat you. You don't have any injuries." She then told C/O's Anderson, Coronado and Pynnonen, officers who had assaulted him and poisoned his food tray, "Get him out of here." The officers laughed and forced him back to his cell in pain to suffer as his jaw was still swollen and his head was seriously hurting due to persistent headaches from the assault, and still to this day he is having ~~ongoing~~ ongoing headaches. See AMF-17-01-00046-12d3, supporting grievance exhibits K-38 and K-39. step I of this grievance is a supporting exhibit written on her, R.N. David Fingan and R.N. Nicole Sunburg on 12-31-16 for deliberate indifference to a serious medical need. ALSO SEE STEP I - III AMF-17-06-1437-12E

(Legal claims)

32. Prison official's threats to do more harm to Plaintiff Mays by retaliating on him for taking legal action violates his right to meaningful access to the courts, which is guaranteed by the due process clause of the Fourteenth Amendment. See, all exhibits F-10 through F-25, and K-1 through K-39 to support claims throughout this civil action claim (ALSO C-1 AND H-1 OF GRIEVANCE EXHIBITS) ALSO SEE ADDITIONAL EXHIBITS IN SUPPORT OF CLAIMS REUSEFUL ASSAULT ON SACIF BY C/O PYNNONEN, F-26 AND MEDICAL EXHIBITS K-40 - K-44 SHOWING DENIAL OF MEDICAL CARE.

33. No reasonable person, especially one trained to protect the rights of a prisoner, could claim that they didn't know their conduct violated the law. One of the major roles, if not the sole role, a prison official plays is to maintain the safety and security of a prisoner. These officers, C/O's Coronado, Anderson, Perala, Massie, Geneman, and Pynnonen, acted with the specific intent to retaliate by using unjustified excessive force on a non-resisting prisoner. These Defendants administered a severe beating to Plaintiff Mays with no other purpose than to inflict serious pain and suffering all due to Plaintiff Mays' protected right to file grievances and lawsuits against their fellow co-workers. While he was beating Plaintiff Mays, C/O Pynnonen stated, "This is for all those damn lawsuits you keep filing on our co-workers. ~~Retaliating on you.~~" As Plaintiff Mays was being beaten, C/O Perala stated, "You'll think twice before you file another lawsuit on me." See AMF-17-08-1982-28E, step I-III grievance, see also U.S. District Court file 2:17-cv-95 → Marcus Mays vs UNKNOWN C/O PERALA, ET AL DEFENDANT (S)

34. As Plaintiff Mays was beaten on 5-25-17 by C/O Perala and other officers, C/O's Grub and Wealton stood watching and ignored Plaintiff Mays' pleas for help. This is considered failure to protect Plaintiff Mays as he was being continuously beaten, which is a serious Eight Amendment violation, which is intentional deliberate indifference and failure to protect. *Farmer v. Brennan*, 511 U.S. 825. Deliberate indifference entails

that someone consciously or recklessly contributes to or has knowledge of a harmful condition and does nothing to correct it which results in actual or potential harm to a prisoner. *Estelle v. Gamble*, 429 U.S. 97 (1976).

35. Under *Farmer v. Brennan* a prison official does not need to know that a prisoner has been harmed, they only have to know that there was a substantial risk of serious harm.

36. Under the Eight Amendment of the United States Constitution, every person convicted of a crime or criminal offense has the right not to be subjected to cruel and unusual punishment. This, of course, includes the right not to be <sup>(BEATEN OR</sup> assaulted.) The beating and injuries that Plaintiff Mays suffered constitutes cruel and unusual punishment in violation of the Eighth Amendment to the U.S. Constitution and the due process clause of the Fourteenth Amendment.

37. The intentional food poisoning endured by Plaintiff Mays at the hands of these officials <sup>(PRISON IS FINNORAN ANDERSON)</sup> is considered cruel and unusual punishment in violation of the Eight Amendment.

38. It is clearly established that prison officials may not use gratuitous use of force on a non-resisting prisoner who is already subdued in handcuffs ~~and~~ restraints, that has no objective but to inflict pain and suffering which constitutes excessive force and cruel and unusual punishment in violation of the Eighth Amendment. THE LAW WAS CLEARLY ESTABLISHED ON 5-25-17.

39. Defendant's failure to provide medical care needed by the Plaintiff constitutes cruel and unusual punishment without due process of law in violation of the Eight Amendment. Conditions that cause pain, discomfort or are threat to good health are serious Eight Amendment violations. See *Estelle v. Gamble*, 429 U.S. 97, 104 (1976); see also step I – III grievance exhibits AMF-17-08-1982-28E on excessive force and food poisoning, and AMF 17-06-1437-12E4 on health care.

40. Deliberate indifference to a serious medical need is shown when prison officials have prevented an inmate from receiving recommended treatment or when an inmate is denied access to medical personnel capable of evaluating the need for treatment. *Todaro v. Ward*, 565 F.2d 48 (2<sup>nd</sup> Cir. 1977). Denial or delay of access to treatment by prison officials, this includes medical personnel, may constitute deliberate indifference. *Estelle v. Gamble*, 429 U.S. at 104. Prison authorities may not be deliberately indifferent to the suffering of a prisoner under their care for fundamental fairness and most basic conception of due process mandates that medical care be provided to one who is incarcerated and may be suffering from a serious illness or injury. 42 USC § 1983, U.S. Const. Amend. 8 and 14.

41. These Defendant's threat to do more harm to the Plaintiff for taking legal action violates the Plaintiff's right to meaningful access to the courts, which is guaranteed by the due process clause of the Fourteenth Amendment.

42. Prison officials may not retaliate against a prisoner because he has filed a grievance, nor are prison officials allowed to conspire against prisoners due to protected conduct. *Babcock v. White*, 102 F.3d 267, 274 (7<sup>th</sup> Cir.).

43. The First Amendment has been held to extend to prisoners who pursue legal claims <sup>(ORGANIZATION)</sup> (prison officials), including those who use the prison administrative grievance process. *Johnson v. Avery*, 393 U.S. 483 (1969).

44. The Plaintiff has no plain adequate or complete remedy at law to redress the wrongs described herein. Plaintiff Mays has been, and will continue to be, irreparably injured by the conduct of these Defendants unless this Court grants declaratory, injunctive, compensatory and punitive damages which the Plaintiff seeks.

Relief

State briefly and precisely what you want the court to do for you.

WHEREFORE, Plaintiff respectfully prays that this Court will enter judgment granting Plaintiff:

1. A declaratory judgment that the Defendants acts, described herein violated Plaintiff's rights under the US Constitution.
2. Compensatory damages in the amount of \$75,000.00, or an amount the Court deems just, to Plaintiff from each Defendant who individually violated Plaintiff's constitutional rights.
3. Punitive damages in the amount of \$75,000.00, or an amount the Court deems just, to Plaintiff from each Defendant who individually violated Plaintiff's constitutional rights.
4. Trial by jury on all issues triable by jury.
5. Plaintiff's cost of this suit.
6. Attorney fees of this suit.
7. Such other relief as this Court may deem just, proper and equitable.

Dated: 9-5-17

Marcus D. Mays #218101  
Marcus D. Mays #218101

NOTICE TO PLAINTIFF(S)

The failure of a *pro se* litigant to keep the court apprised of an address change may be considered cause for dismissal.

VERIFICATION

I, Marcus D. Mays, Plaintiff swears under the penalty of perjury that the foregoing is true and correct.

~~I Marcus D. Mays Plaintiff swears under penalty of perjury 28 USC § 1746~~  
~~that the foregoing is true and correct.~~ Respectfully submitted,

Subscribed and sworn to before me  
This 16 day of SEPTEMBER  
2017.

Dan DeBuge  
Notary Public.

Houghton Acting Baraga 5-23-21

Marcus D. Mays #218101

Executed at: Marcus D. Mays #218101  
Baraga Correctional Facility  
13924 Wadaga Rd.  
Baraga, MI 49908-9204

~~I Marcus D. Mays, Plaintiff swears under penalty of perjury 28 USC § 1746; that the foregoing is~~  
~~true and correct.~~

~~SUBSCRIBED AND SWORN TO BEFORE ME~~  
~~THIS~~ day of ~~\_\_\_\_\_~~ 2017

~~Notary Public.~~

EXECUTED AT: Marcus D. Mays #218101  
Marcus D. Mays #218101  
Baraga Correctional Facility  
13924 Wadaga Rd.  
Baraga MI, 49908-9204

LANCE MILLER  
NOTARY PUBLIC, STATE OF MI  
COUNTY OF MARQUETTE  
MY COMMISSION EXPIRES Mar 14, 2023  
ACTING IN COUNTY OF BARAGA

J. Miller 7-19-17



MARSHALL D. MAYES # 218101  
BANK OF AMERICA  
13924  
WADSWORTH ROAD, BANGOR, ME 04908-9204



**To:**  
CLERK OF THE COURT  
UNITED STATES DISTRICT COURT (W.D.MI)  
299 POST OFFICE BOX 698, MARQUETTE  
MICHIGAN 49855

ENCLOSED WITH THIS (COVER LETTER) PLEASE FIND ONE (1) ORIGINAL AND ONE COPY OF THE FOLLOWING DOCUMENTS FOR FILING WITH THIS COURT IN THE ABOVE ENTITLED CAUSE WITH ATTACHED ORIGINAL AND COPY OF EXHIBITS IN SUPPORT OF:

1. 42 U.S.C. § 1983 PRISONER CIVIL RIGHTS VIOLATED CIVIL ACTION COMPLAINT - THE KOLIMA PRISONERS APPLICATION.
2. AUTHORIZATION FOR WITHDRAWAL OF FUNDS TO PAY THE CIVIL ACTION FILING FEE.
3. AFFIDAVIT OF INDIGENCY IN SUPPORT OF REQUEST TO PROCEED IN FORMA PAUPERIS CERTIFICATE OF PRISONER ACCOUNT ACTIVITY SHEET
4. CERTIFICATE OF MAILING / PROOF OF SERVICE (MARSHALL D. MAYES # 218101 PLAINTIFF V. THE UNKNOWN DEFENDANT)

