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14  
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19  
20 UNITED STATES DISTRICT COURT

21 NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

22 Z.T.S.,

23 Plaintiff,

24 v.

25 UNITED STATES OF AMERICA; UNITED  
STATES OF AMERICA FEDERAL BUREAU OF  
PRISONS, a governmental entity; and SINCLAIR,

26 Defendants.

**COMPLAINT**

**JURY TRIAL DEMANDED**

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1 Plaintiff Z.T.S. (“Plaintiff”), by and through her attorneys allege against the Defendants as  
2 above captioned as follows upon information and belief:

3 **INTRODUCTION**

4 1. For years, people incarcerated at the Federal Correctional Institute, Dublin (“FCI  
5 Dublin”), a federal female low-security prison with an adjacent satellite camp, have been  
6 subjected to rampant, horrific, and ongoing sexual abuse that continues to this day, including but  
7 not limited to: rape and sexual assault; manipulation and sexual coercion, including officers  
8 entering into relationships with incarcerated individuals and officers forcing incarcerated  
9 individuals to undress in order to be released from cells or for exchange of goods; degrading  
10 sexual comments; voyeurism; taking and sharing explicit photos; drugging, groping, and other  
11 forms of abuse during medical exams; and targeted abuse towards immigrants under threat of  
12 deportation. The Federal Bureau of Prisons (“BOP”) and employees at every level have been  
13 aware of these problems for decades and have failed, and continue to fail to take action to protect  
14 those in its care by preventing and addressing rampant staff sexual misconduct.

15 2. The staff sexual abuse at FCI Dublin became the center of a sprawling criminal  
16 investigation, multiple Congressional inquiries, and national media attention. The United States  
17 Senate’s Permanent Subcommittee on Investigations devoted multiple hearings to addressing its  
18 causes and impact, and issued a report in December 2022 describing the abuse as “horrific” and  
19 Defendant BOP’s investigative practices as “seriously flawed,” and concluding that “BOP  
20 management failures enabled continued sexual abuse of female prisoners by BOP’s own  
21 employees.”<sup>1</sup>

22 3. Congress enacted the Prison Rape Elimination Act in 2003, 34 U.S.C. § 30301, *et*  
23 *seq.* (“PREA”) to establish national standards for preventing precisely this kind of sexual abuse  
24 from happening to incarcerated people. Under PREA, the U.S. Department of Justice promulgated  
25

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26 <sup>1</sup> S. PERMANENT SUBCOMM. ON INVESTIGATIONS, REP. ON SEXUAL ABUSE OF FEMALE INMATES IN  
27 FEDERAL PRISONS, 1 (Dec. 13, 2022), [https://www.hsgac.senate.gov/wp-](https://www.hsgac.senate.gov/wp-content/uploads/imo/media/doc/2022-12-13%20PSI%20Staff%20Report%20-%20Sexual%20Abuse%20of%20Female%20Inmates%20in%20Federal%20Prisons.pdf)  
28 [content/uploads/imo/media/doc/2022-12-13%20PSI%20Staff%20Report%20-%20Sexual%20Abuse%20of%20Female%20Inmates%20in%20Federal%20Prisons.pdf](https://www.hsgac.senate.gov/wp-content/uploads/imo/media/doc/2022-12-13%20PSI%20Staff%20Report%20-%20Sexual%20Abuse%20of%20Female%20Inmates%20in%20Federal%20Prisons.pdf)  
(hereinafter “Senate Report”).

1 detailed mandatory regulations that provide precise procedures that prisons must follow. The  
2 Federal Bureau of Prisons (“BOP”) adopted PREA policies in response to these regulations.

3 4. Despite these mandatory protections, while incarcerated at FCI Dublin from  
4 September 2019 until November 2022, Plaintiff, was physically assaulted by Officer CHAVEZ,  
5 called racial epithets and physically threatened by Officer JONES, verbally and sexually assaulted  
6 by Defendant SINCLAIR, and was fired from her kitchen job and put into the Secured Housing  
7 Unit (SHU) as retaliation. In doing so, Defendants violated Plaintiff’s Constitutional rights and  
8 California law on gender violence, sexual assault, and common law on battery.

9 5. As a result of Defendants’ actions, Plaintiff suffered numerous emotional injuries  
10 and incurred severe personal injuries, which continue to affect her today.

11 6. Plaintiff brings this suit under the United States Constitution Eighth Amendment’s  
12 prohibition on cruel and unusual punishment. Plaintiff also brings this suit under the Federal Tort  
13 Claims Act (“FTCA”) 28 U.S.C. §§ 2671, *et seq.*, under state law on gender violence and sexual  
14 assault, and in connection with the deficient supervision and custodial care provided by various  
15 BOP personnel, including Defendant SINCLAIR, and Officers JONES, CHAVEZ, and SMITH,  
16 within the scope of their employment within the BOP.

17 **JURISDICTION AND VENUE**

18 7. This Court has original subject matter jurisdiction in this action involving claims  
19 arising under the United States Constitution pursuant to 28 U.S.C. §§ 1331 and 1346(b).  
20 Plaintiffs’ claims are predicated, in part, upon the FTCA, 28 U.S.C. §§ 2671, *et seq.*, authorizing  
21 actions seeking relief against the United States.

22 8. The Court has personal jurisdiction of the Defendants because the alleged incidents  
23 occurred within the confines of the State of California.

24 9. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b)(2) and 1402(b) as  
25 a substantial part of the events or omissions giving rise to Plaintiff’s claims occurred within the  
26 boundaries of this District, in the County of Alameda.

27 **THE PARTIES**

28 10. At all times relevant hereto, Plaintiff was incarcerated in the custody of BOP,

1 incarcerated at FCI Dublin located at 5701 8th St., Dublin, CA 94568. Plaintiff was transferred to  
2 the Northwest ICE Processing Center in Tacoma, Washington where she is still incarcerated  
3 today.

4 11. Defendant United States of America (hereinafter “United States”) is the appropriate  
5 defendant for Plaintiffs’ claims under the Federal Tort Claims Act. The United States is a  
6 sovereign entity that has waived its immunity for certain claims, including the claims set forth  
7 herein, and is liable for the acts or omissions of its agents, servants, contractors, and employees  
8 that occur within the scope of their employment.

9 12. At all times relevant hereto, Defendant United States, acting through the BOP, was  
10 responsible for the operation, control, supervision, policy, practice, implementation, and conduct  
11 of all BOP matters including at FCI Dublin and was responsible for the hiring, retention, training,  
12 supervision, management, discipline, and conduct of all BOP personnel, including but not limited  
13 to Defendant SINCLAIR, and Officers GARCIA, JONES, CHAVEZ, and SMITH

14 13. In addition, at all relevant times, United States was responsible for enforcing the  
15 rules of the BOP, and for ensuring that BOP personnel obey the Constitution and laws of the  
16 United States.

17 14. Defendant SINCLAIR (“Defendant SINCLAIR”) was an officer at FCI Dublin  
18 during the time period relevant to events described herein and is sued in his individual capacity.  
19 While performing the acts and omissions that Plaintiffs allege in this complaint, Defendant  
20 SINCLAIR was acting within the scope of his official employment, or with the BOP’s permission  
21 and consent and under color of federal law.

22 15. Officer ANDREW JONES (“Officer JONES”) was an officer at FCI Dublin during  
23 the time period relevant to events described herein. While performing the acts and omissions that  
24 Plaintiffs allege in this complaint, Officer JONES was acting within the scope of his official  
25 employment, or with the BOP’s permission and consent and under color of federal law.

26 16. Officer ENRIQUE CHAVEZ (“Officer CHAVEZ”) was an officer at FCI Dublin  
27 during the time period relevant to events described herein. While performing the acts and  
28 omissions that Plaintiffs allege in this complaint, Officer CHAVEZ was acting within the scope of

1 his official employment, or with the BOP’s permission and consent and under color of federal law.

2 17. Officer DARRELL SMITH (“Officer SMITH”) Smith was an officer at FCI Dublin  
3 during the time period relevant to events described herein. While performing the acts and  
4 omissions that Plaintiffs allege in this complaint, Officer SMITH was acting within the scope of  
5 his official employment, or with the BOP’s permission and consent and under color of federal law.

6 18. Warden RAY J. GARCIA (“Warden GARCIA”) was the associate warden at FCI  
7 Dublin between December 2018 and November 2020, and the warden of FCI Dublin from  
8 November 2020 to July 2021 – a time that overlapped with Plaintiff being abused by Defendant  
9 SINCLAIR, and Officers JONES, CHAVEZ, and SMITH. As the warden, GARCIA was  
10 responsible for safekeeping, care, protection, discipline, programming, and release of inmates  
11 incarcerated at FCI Dublin. In his capacity as an agent, servant, and employee of Defendant  
12 United States, and within the course and scope of his employment as such, Warden GARCIA was  
13 responsible for the day-to-day oversight, supervision, care, custody, control, direction, safety, and  
14 well-being of people confined at FCI Dublin, including Plaintiff. Warden GARCIA was also  
15 responsible for hiring, training, and supervising/managing staff, and determining operating  
16 procedures and policies.

17 19. At all times relevant hereto, Defendant United States, acting through the BOP,  
18 hired Defendant SINCLAIR, Warden GARCIA, and Officers JONES, CHAVEZ, and SMITH to  
19 serve as “correctional officers” and “law enforcement officers” within the meaning and powers of  
20 28 U.S.C. § 2680(h).

21 20. While acting and failing to act as alleged herein, Defendants had complete custody  
22 and total control of Plaintiff, who was dependent upon Defendants for personal security and  
23 necessities.

24 21. In performing the acts and/or omissions contained herein, Defendants acted under  
25 color of federal law, and each acted maliciously, callously, intentionally, recklessly, with gross  
26 negligence, and with deliberate indifference to the rights and personal security of Plaintiff. Each  
27 of them knew or should have known that their conduct, attitudes, actions, and omissions were a  
28 threat to Plaintiff and to their constitutionally and statutorily protected rights. Despite this

1 knowledge, Defendants failed to take steps to protect Plaintiff and to ensure that their rights were  
2 adequately protected while in the custody of Defendants.

3 22. At all times relevant hereto, each Defendant was the agent, representative, or  
4 employee of each other Defendant. At all times relevant hereto, each Defendant was acting within  
5 the course and scope of said alternative agency, representation, or employment and was within the  
6 scope of their authority, whether actual or apparent. At all times relevant hereto, each Defendant  
7 was the authorized agent, partner, servant, or contractor of each other Defendant, and the acts and  
8 omissions herein alleged were done by them acting through such capacity, within the scope of  
9 their authority, with the permission, ratification, approval, and consent of each other Defendant.  
10 Accordingly, each of them is jointly and severally liable to Plaintiff.

11 23. Individual Defendants further directly assaulted, harassed, demeaned, degraded,  
12 and trafficked particular Plaintiffs as alleged herein.

13 **CONDITIONS PRECEDENT TO FEDERAL TORT CLAIMS ACT CLAIMS**

14 24. Plaintiff brings claims under the Federal Tort Claims Act, asserted against the  
15 United States of America.

16 25. Plaintiff exhausted these claims against the United States in accordance with the  
17 requirements of the FTCA.

18 26. Plaintiff submitted a “Claim for Damage, Injury, or Death” to the BOP as a PREA  
19 victim involving staff at FCI Dublin in the sum of \$10,000,000.00. The BOP received her  
20 administrative claim on March 7, 2023. By September 7, 2023, six months after BOP received  
21 Plaintiff’s administrative claim, the BOP has neither accepted nor rejected the claims. Pursuant to  
22 28 U.S.C. § 2675(a), Plaintiff considers this failure to act as a final denial of the claims.

23 **JURY DEMAND**

24 27. Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiffs hereby demand a trial  
25 by jury on all issues and claims in this action that are so triable.  
26  
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28

**FACTUAL ALLEGATIONS****I. Federal Law Requires BOP to Take Action to Prevent and Appropriately Respond to Reports of Staff Sexual Misconduct**

28. Prison staff sexual abuse of incarcerated people constitutes a form of torture that violates the Eighth Amendment. *See Bearchild v. Cobban*, 947 F.3d 1130, 1144 (9th Cir. 2020). Such abusive sexual contact also violates federal criminal law. *See, e.g.*, 18 U.S.C. §§ 2243, 2244.

29. The Prison Rape Elimination Act (“PREA”) of 2003 required the Attorney General to promulgate rules to prevent sexual abuse in prison facilities. *See* 34 U.S.C. § 30307. In 2012, the U.S. Department of Justice issued regulations designed to “prevent, detect, and respond to prison rape.” *See* 28 C.F.R. § 115, 77 Fed. Reg. No. 119 (June 20, 2012). These regulations were immediately binding on BOP facilities. *Id.*

30. Under PREA regulations, BOP is required to “train all employees who may have contact with inmates” on the following: its “zero-tolerance policy for sexual abuse and sexual harassment”; prevention, reporting, detection, and response to such behavior; “the right of inmates to . . . be free from retaliation for reporting sexual abuse and sexual harassment”; signs and dynamics of sexual abuse in confinement, and “common reactions of . . . victims”; and “how to avoid inappropriate relationships with inmates.” *Id.* § 115.31(a). The training must be “tailored to the gender of the inmates at the employee’s facility,” and the agency must conduct a refresher training on PREA standards every two years. *Id.* § 115.31(b)–(c). In off years from the training, “the agency shall provide refresher information on current sexual abuse and sexual harassment policies.” *Id.* § 115.31(c).

31. PREA regulations mandate staff reporting. BOP must “require all staff to report immediately . . . any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency; retaliation against inmates or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.” 28 C.F.R. § 115.61(a).

32. Per PREA regulations, administrative investigations of alleged sexual abuse by a staff member or incarcerated person are required to proceed “promptly, thoroughly, and

1 objectively for all allegations, including third-party and anonymous reports.” *Id.* § 115.71(a).  
2 Investigators must be specially trained in sexual abuse investigations and must “gather and  
3 preserve direct and circumstantial evidence,” including interviewing “alleged victims, suspected  
4 perpetrators, and witnesses” and “shall review prior complaints and reports of sexual abuse  
5 involving the suspected perpetrator.” *Id.* § 115.71(c)-(b). The agency is prohibited from  
6 determining an alleged victim’s credibility based on their “status as inmate or staff.” *Id.* §  
7 115.71(e). Investigations are further required to “include an effort to determine whether staff  
8 actions or failures to act contributed to the abuse.” *Id.* § 115.71(f). “The departure of the alleged  
9 abuser or victim from the employment or control of the facility or agency shall not provide a basis  
10 for terminating an investigation.” *Id.* § 115.71(j).

11       33. Substantiated allegations of potentially criminal conduct must be referred for  
12 prosecution and the agency must retain written reports of investigations for five years beyond the  
13 end of the staff member’s employment. *Id.* § 115.71(h)–(i). After investigating an incarcerated  
14 person’s allegation that they were abused, BOP must inform that person of whether their  
15 allegation was found to be substantiated, unsubstantiated, or unfounded, even if the investigation  
16 was completed by another agency. *Id.* § 115.73(a)–(b). The presumptive disciplinary sanction for  
17 substantiated allegations of sexual abuse is termination. *Id.* § 115.76(b).

18       34. PREA also includes measures designed to prevent staff retaliation following  
19 incarcerated persons’ reports of abuse. PREA requires that BOP establish a policy to prevent  
20 retaliation, and that staff monitor retaliation, provide “emotional support services for inmates . . .  
21 who fear retaliation,” and monitor for at least 90 days the conduct and treatment of incarcerated  
22 people who report abuse. *Id.* § 115.67. These protective measures include strict limits on the use  
23 of administrative segregation. The regulations provide: “Inmates at high risk for sexual  
24 victimization shall not be placed in involuntary segregated housing unless an assessment of all  
25 available alternatives has been made, and . . . there is no available alternative means of separation  
26 from likely abusers. If a facility cannot conduct such an assessment immediately, the facility  
27 may” hold the individual in segregated housing for “less than 24 hours while conducting the  
28 assessment.” *Id.* § 115.43(a). Any incarcerated person placed in protective custody for this

1 purpose “shall have access to programs, privileges, education, and work opportunities to the extent  
2 possible.” *Id.* § 115.43(b).

3 35. Defendants repeatedly violated these regulations. From inadequate training, to lack  
4 of confidential reporting mechanisms and access to outside support services, to failures in  
5 administrative investigations, widespread misuse of administrative segregation, and rampant staff  
6 retaliation, its actions and failures to act created an environment that exposed Plaintiff to an  
7 unconscionable risk of sexual violence. As one survivor of staff sexual abuse at Dublin remarked  
8 at the trial of Warden GARCIA, PREA “really doesn’t exist in Dublin.” Transcript at 401, *United*  
9 *States v. Garcia*, No. CR-21-00429-YGR (N.D. Cal. Nov. 29, 2022).

## 10 **II. FCI Dublin Leadership and Staff Allowed Sexual Assault to Flourish**

11 36. Eight former officers—including former Warden Ray Garcia and a former  
12 chaplain—have been charged with sexual misconduct for incidents spanning from 2019 into 2021,  
13 with more charges likely forthcoming. *See United States v. Garcia*, No. 4:21-cr-00429-YGR  
14 (N.D. Cal.) (sentenced to 70 months in prison and 15 years of supervised released following jury  
15 trial); *United States v. Highhouse*, No. 4:22-cr-00016-HGS (N.D. Cal.) (sentenced to 84 months in  
16 federal prison and 5 months of supervised release following guilty plea); *United States v. Chavez*,  
17 No. 4:22-cr-00104-YGR-1 (N.D. Cal.) (sentenced to 20 months in federal prison and 10 years of  
18 supervised release following guilty plea); *United States v. Klinger*, No. 4:22-cr-00031-YGR (N.D.  
19 Cal.) (plead guilty to three counts of sexual abuse of a ward); *United States v. Bellhouse*, No. 4:22-  
20 cr-00066-YGR (N.D. Cal.) (sentenced to 63 months in federal prison and 5 years of supervised  
21 release following jury trial); *United States v. Smith*, No. 4:23-cr-00110-YGR-1 (charges pending);  
22 *United States v. Nunley*, No. 4:23-cr-00213-HSG (N.D. Cal.) (awaiting sentencing following  
23 guilty plea for 4 counts of sexual abuse of a ward, 5 counts of abusive sexual contact, and 1 count  
24 of false statements to a government agency); *United States v. Jones*, No. 4:23-cr-00212-HSG  
25 (N.D. Cal.) (sentenced to 96 months in federal prison and 10 years of supervised release following  
26 guilty plea for 6 counts of sexual abuse of a ward and 1 count of false statements to a government  
27 agency).

28 37. Warden GARCIA was the associate warden at FCI Dublin between December 2018

1 and November 2020, and the warden of FCI Dublin from November 2020 to July 2021 – a time  
2 that overlapped with Plaintiff being abused by Defendant SINCLAIR and Officers JONES,  
3 CHAVEZ, and SMITH. As the warden, GARCIA was responsible for safekeeping, care,  
4 protection, discipline, programming, and release of inmates incarcerated at FCI Dublin. Warden  
5 GARCIA was also responsible for hiring, training, and supervising/managing staff, and  
6 determining operating procedures and policies.

7 38. Warden GARCIA was found guilty of three counts of having sexual contact with  
8 an incarcerated person, four counts of abusive sexual contact, and one count of lying to the FBI.  
9 Warden GARCIA was sentenced to 5 years and 10 months in prison.

10 39. In July 2023, Officer JONES plead guilty to sexual abuse. *See* Plea Agreement,  
11 *United States v. Jones*, No. 4:23-cr-00212-HSG (N.D. Cal. July 13, 2023). Officer JONES  
12 admitted to sexually assaulting five incarcerated women.

13 40. In early 2022, Officer CHAVEZ was charged with sexually abusing women in his  
14 custody. Officer CHAVEZ pled guilty to sexually assaulting an incarcerated woman multiple  
15 times. The federal criminal investigation has made clear that FCI Dublin staff explicitly target  
16 immigrant women for abuse, leveraging the threat of deportation. In relevant instances, officers  
17 told survivors that they “looked in their files” and knew that they were subject to immigration  
18 detainers, or they threatened to notify immigration authorities if survivors reported their abuse. For  
19 example, Officer CHAVEZ sexually abused multiple Mexican immigrant women, and has even  
20 traveled to Mexico to visit a woman that he abused after she was released and deported. He plead  
21 guilty and was sentenced to 20 months in federal prison and 10 years of supervised release.  
22 *United States v. Chavez*, No. 4:22-cr-00104-YGR-1 (N.D. Cal.).

23 41. In May 2023, Officer SMITH was also indicted on 12 counts for sexually abusing three  
24 incarcerated women and is currently awaiting trial. Officer Smith—widely known as “Dirty Dick  
25 Smith”—abused dozens of incarcerated women beginning as early as 2015 and continuing until at  
26 least August 2021

27 42. Warden GARCIA led training on the Prison Rape and Elimination Act and chaired  
28 the audit of FCI Dublin under the PREA. Thus, the man responsible for reporting incidents to the

1 government and teaching inmates how to report rape was in fact a serial rapist of incarcerated  
2 people, and he was clearly tolerating and allowing abuse by many more of his underlings,  
3 including Defendant SINCLAIR, and Officers JONES, CHAVEZ, and SMITH.

4 43. Warden GARCIA had actual knowledge that the other correctional officers under  
5 his supervision were sexually assaulting inmates before and after Plaintiff was abused. Despite  
6 this knowledge, Warden GARCIA did not do anything to stop it, even though he had a duty to do  
7 so. Due to the fact that Warden GARCIA had knowledge of prior sexual abuse at FCI and failing  
8 to do anything about it, it allowed FCI agents, representatives, and employees to abuse Plaintiff.

9 44. Warden GARCIA had actual knowledge that inmates complained about the  
10 assaults. Warden GARCIA knew or should have known that the inmates were subjected to  
11 retaliation. Because Defendant did not investigate complaints of abuse and harassment and did  
12 not do anything to stop it, inmates, including Plaintiff, were abused. Had Warden GARCIA taken  
13 reasonable actions, which he was under a legal duty to perform, Plaintiff would not have been  
14 abused. Warden Garcia's intentional indifference to inmate abuse was a substantial factor in  
15 Plaintiff suffering abuse.

16 45. PREA guidelines and FCI Dublin policies and procedures required all inmate  
17 complaints of sexual assault and sexual abuse filed or reported internally be reported to Warden  
18 GARCIA. During GARCIA's tenure, complaints of sexual assaults of inmates by correctional  
19 officers and/or staff were reported.

20 46. With knowledge of prior abuse against inmates by FCI Dublin, representatives, and  
21 employees, Warden GARCIA failed to protect the inmates and turned a blind eye. Such behavior  
22 set the tone for rape culture at FCI Dublin, garnering Garcia and his subordinate correctional  
23 officers and employees the nickname – "the Rape Club."

24 47. Further, Warden GARCIA and others inadequately supervised and trained the  
25 prison's correctional officers and other employees, including Defendant SINCLAIR, and Officers  
26 JONES, CHAVEZ, and SMITH. The UNITED STATES failed to supervise which was a  
27 substantial factor in causing Plaintiff's abuse.

28 48. Defendants repeatedly violated the law. From inadequate training, to lack of

1 confidential reporting mechanisms and access to outside support services, to failures in  
2 administrative investigations, widespread misuse of administrative segregation, and rampant staff  
3 retaliation, its actions—and failures to act—created an environment that exposed Plaintiff to an  
4 unconscionable risk of sexual violence. As one survivor of staff sexual abuse at Dublin remarked  
5 at the trial of Warden GARCIA, PREA “really doesn’t exist in Dublin.” Transcript at 401, *United*  
6 *States v. Garcia*, No. CR-21-00429-YGR (N.D. Cal. Nov. 29, 2022).

7 **III. Plaintiff was Harassed and Assaulted By Defendant SINCLAIR While She Worked**  
8 **In the Kitchen**

9 49. Plaintiff was incarcerated at FCI Dublin beginning on or around September 2019.

10 50. Plaintiff is a longtime Legal Permanent Resident and the single mother of two  
11 young U.S. citizen children. She is a survivor of years of childhood sexual abuse by her  
12 stepfather. While incarcerated at FCI Dublin, Plaintiff worked in the kitchen where she  
13 experienced and witnessed staff sexual abuse.

14 51. While incarcerated at FCI Dublin, Defendant SINCLAIR sexually harassed and  
15 physically assaulted Plaintiff taking advantage of his role as an officer in charge of the prison  
16 kitchen where Plaintiff worked. During her time at FCI Dublin, the back of the kitchen was  
17 known as a main area where officers would take women to engage in sexual activities.

18 52. Defendant SINCLAIR began sexually harassing Plaintiff by persistently attempting  
19 to convince her to go to the backroom of the kitchen, where there are not cameras, to “show her  
20 his tattoos” in an attempt to expose himself to her. On several occasions, he also rubbed his arms  
21 on her shoulders and back to motion for her to come with him to the back.

22 53. Defendant SINCLAIR eventually began ordering Plaintiff to do various things for  
23 him like “[g]et down on [her] knees” and “bend over.” When Plaintiff refused, Defendant  
24 SINCLAIR approached Plaintiff from behind and grabbed her buttocks.

25 54. In early 2021, Plaintiff again refused Defendant SINCLAIR’s prompts to “go to the  
26 back” with him to engage in sexual conduct. Plaintiff replied, “No, I am not like that.” After  
27 Plaintiff refused his advances, he began verbally abusing her. He called her a “bitch” to other  
28 officers, including Officer Poole, who later told Plaintiff that Defendant SINCLAIR called her a

1 “bitch” on a number of occasions. After Defendant SINCLAIR realized Plaintiff was not going to  
2 give him attention, he moved on to sexually abuse and harass another incarcerated woman in the  
3 prison.

4 **III. Officers CHAVEZ, JONES, and SMITH Subjected Plaintiff to Physical and Verbal**  
5 **Abuse as Retaliation.**

6 55. While incarcerated at FCI Dublin, Officers CHAVEZ, JONES, and SMITH  
7 retaliated against Plaintiff because they knew she was aware that she witnessed them have sex  
8 with other people incarcerated at the prison.

9 56. In December 2019, Plaintiff saw Officer CHAVEZ have sex with other women in  
10 the warehouse. After learning that Plaintiff saw him having sex them, Officer CHAVEZ retaliated  
11 against her by grabbing her shirt and shoving her against the wall in the kitchen. During this  
12 incident, Officer CHAVEZ violently shook her in front of others. This attack was unprompted,  
13 and she was fearful of what else he could do to her.

14 57. Plaintiff also witnessed Officer JONES have a sexual relationship with her  
15 cellmate. After Officer JONES stopped having sex with Plaintiff’s cellmate, he began acting cruel  
16 and abusive towards Plaintiff. He pushed Plaintiff against the oven while it was on and she was  
17 burned as a result. Because he knew Plaintiff knew about their relationship, Officer JONES often  
18 screamed at Plaintiff to demean her, calling her “a fucking wetback.” He also threatened her  
19 saying, “I will slap the shit out of you if you ever say anything.” After Officer JONES stopped  
20 having sex with Plaintiff’s cellmate, Defendant SINCLAIR, and Officers JONES and Pool fired  
21 her from the kitchen.

22 58. Even more, Officer JONES told one woman he was engaging in sexual acts with to  
23 “do whatever you need to put [Plaintiff] in the SHU.” As a result, that woman told officers that  
24 Plaintiff got into a fight with her. Plaintiff was put in the SHU for a month although Lieutenant  
25 Putman later confirmed that Plaintiff was never in the room where the alleged fight happened.

26 59. Officer SMITH was sexually harassing Plaintiff’s cellmate. On one occasion,  
27 Officer SMITH locked Plaintiff and her cellmate in their cell and said he would not open the door  
28 until her cellmate showed him her breasts. After she finally showed him her breasts, Officer

1 JONES unlocked the door and let them both out.

2 **IV. Plaintiff Reported Her Abuse to the Special Investigative Specialist and the FBI.**

3 60. Plaintiff was fearful to report her experience because of all the retaliation she  
4 already faced. She was physically assaulted by Officer CHAVEZ, called racial epithets and  
5 physically threatened by Officer JONES, verbally assaulted by Defendant SINCLAIR, fired from  
6 her job, and put in the SHU as retaliation. Plaintiff was terrified of what else these officers could  
7 do to her if she reported all of the abuse and harassment she experienced and witnessed. She also  
8 knew there was a rampant culture of protecting abusive officers at all levels of the prison so she  
9 could not trust any officers. Plaintiff believed all means of reporting abuse was not confidential,  
10 and the retaliation she experienced bolstered that belief.

11  
12 61. In early 2022, Lieutenant Putnam, the Special Investigative Specialist (SIS), called  
13 Plaintiff to speak with him about her experience with sexual harassment but she was scared to  
14 speak with him because she knew Lieutenant Putnam and Officer Pool were friends so he didn't  
15 trust them. She told Putnam a few details but did not feel comfortable telling him everything. A  
16 month later, she also spoke to the FBI. After she spoke to Putnam, Officers JONES and Pool, and  
17 Defendant SINCLAIR began calling Plaintiff a "snitch" whenever she walked past them. This  
18 only strengthened her belief that reporting at any level of the BOP was never safe.

19  
20 **CLAIMS FOR RELIEF**

21 **FIRST CLAIM FOR RELIEF**

22 ***Plaintiff Against Defendant SINCLAIR***  
23 **(Eighth Amendment, Cruel and Unusual Punishment)**

24 62. Plaintiff incorporates by this reference the allegations contained in the preceding  
25 paragraphs as if set forth fully herein.

26 63. Defendant SINCLAIR subjected Plaintiff to serious bodily harm as defined by the  
27 Eighth Amendment when they sexually assaulted and harassed Plaintiff and provided or withheld  
28 privileges to coerce sexual favors from Plaintiff.



1 States for the wrongful acts/omissions of its employees.

2 **THIRD CLAIM FOR RELIEF**  
3 ***Plaintiff Against the United States***  
4 **(Intentional Infliction of Emotional Distress (“IIED”) – California common law)**

5 72. Plaintiff incorporates by this reference every allegation in the preceding paragraphs  
6 as if fully set forth herein.

7 73. Plaintiff brings this claim against the United States under the FTCA based on acts  
8 and/or omissions of Defendant United States and all other Defendants while working in their  
9 official capacities at FCI Dublin. Defendants are employees of BOP and at all relevant times were  
10 acting within the scope of their employment as federal employees in their official uniforms during  
11 work hours.

12 74. A person is liable for IIED when the defendant engages in outrageous conduct,  
13 when the defendant intended to cause plaintiff to suffer emotional distress or engaged in the  
14 conduct with reckless disregard to the probability of causing plaintiff to suffer emotional distress,  
15 the plaintiff suffered emotional distress, and the outrageous conduct was a cause of the severe  
16 emotional distress.

17 75. Defendant United States, individually or through its agents, servants, contractors,  
18 and/or employees, engaged in extreme and outrageous conduct by subjecting Plaintiff to sexual  
19 acts while incarcerated in their custody, through the above-described acts and omissions.

20 76. Plaintiff’s injuries and damages were caused by intentional torts perpetrated by  
21 Defendants. Under 28 U.S.C. § 2680(h), Defendant United States is liable for intentional torts  
22 perpetrated by its agents, including correctional officers, that occurred within the scope of their  
23 employment under color of federal law.

24 77. At all relevant times, Defendants were acting under color of law by supervising,  
25 disciplining, overseeing, monitoring, controlling, directing, restraining, and imprisoning Plaintiff  
26 within the scope of their employment for the United States.

27 78. Defendants used their authority as law enforcement officers to sexually assault and  
28 harass Plaintiff, and as a direct and proximate cause of this conduct Plaintiff has suffered  
psychological trauma, distress, anxiety, depression, loss of quality of life and dignity, as well as

1 medical and economic injuries.

2 79. Pursuant to the FTCA, Plaintiff is entitled to recover damages from the United  
3 States for the wrongful acts/omissions of its employees.

4 **FOURTH CLAIM FOR RELIEF**  
5 ***Plaintiff Against the United States***  
6 **(Sexual Harassment - Cal. Civ. Code § 51.9)**

7 80. Plaintiff incorporates by this reference every allegation in the preceding paragraphs  
8 as if fully set forth herein.

9 81. Plaintiff brings this claim against the United States under the FTCA based on acts  
10 and/or omissions of Defendant United States and all other Defendants while working in their  
11 official capacities at FCI Dublin. Defendants are employees of BOP and at all relevant times were  
12 acting within the scope of their employment as federal employees in their official uniforms during  
13 work hours.

14 82. A person is liable for sexual harassment when a special relationship exists between  
15 a plaintiff and person where there is a considerable imbalance of power; the defendant has made  
16 sexual advances, solicitations, sexual requests, demands for sexual compliance by plaintiff, or  
17 engaged in other verbal, visual, or physical conduct of a sexual nature or hostile nature based on  
18 gender, that were unwelcome and pervasive or severe; and the plaintiff has suffered or will suffer  
19 economic loss or personal injury including emotional distress or violation of a statutory or  
20 constitutional right.

21 83. There exists in FCI Dublin, as all prisons, an extreme imbalance of power between  
22 the officers and the incarcerated individuals. Officers control every aspect of incarcerated persons  
23 lives. In addition to this always-present imbalance of power, the problem is compounded by  
24 retaliation against those who report misconduct.

25 84. For purposes of Cal. Civ. Code § 51.9, a special relationship exists/existed between  
26 Defendants and Plaintiff due to the coercive power of the officers' positions.

27 85. Defendants in this special relationship with Plaintiff violated Cal. Civ. Code § 51.9  
28 by repeatedly sexually abusing her.

86. Plaintiff has suffered emotional distress as a result, including psychological trauma,

1 distress, anxiety, depression, loss of quality of life and dignity, as well as medical and economic  
2 injuries.

3 87. Pursuant to the FTCA, Plaintiff is entitled to recover damages from the United  
4 States for the wrongful acts/omissions of its employees.

5 **FIFTH CLAIM FOR RELIEF**  
6 ***Plaintiff Against the United States***  
7 **(Tom Bane Civil Rights Act– Cal. Civ. Code § 52.1)**

8 88. Plaintiff incorporates by this reference every allegation in the preceding paragraphs  
9 as if fully set forth herein.

10 89. Plaintiff brings this claim against the United States under the FTCA based on acts  
11 and/or omissions of Defendant United States and all other Defendants while working in their  
12 official capacities at FCI Dublin. Defendants are employees of BOP and at all relevant times were  
13 acting within the scope of their employment as federal employees in their official uniforms during  
14 work hours.

15 90. A person interferes with another's civil rights if the person uses or attempts to use  
16 threats, intimidation, or coercion to interfere with the exercise or enjoyment of rights secured by  
17 the Constitution or state or federal laws.

18 91. Speech alone is sufficient where the threatened person reasonably fears violence  
19 because the person threatening had the apparent ability to carry out the threat. Because of the  
20 coercive, and sometimes violent, nature of a prison and the fact that survivors had seen retaliation  
21 before, Plaintiff reasonably feared violence by Defendants.

22 92. Defendant United States through its agents, servants, contractors, and/or employees  
23 violate Plaintiff's rights, including but not limited to, their right of protection from bodily harm  
24 and sexual violation, imposition of punishment without due process, and cruel and unusual  
25 punishment. Defendants violated these rights by threats, intimidation, or coercion.

26 93. As a direct and proximate result of the foregoing, Plaintiff has suffered emotional  
27 distress as a result, including psychological trauma, distress, anxiety, depression, loss of quality of  
28 life and dignity, as well as medical and economic injuries.

94. Pursuant to the FTCA, Plaintiff is entitled to recover damages from the United

1 States for the wrongful acts/omissions of its employees.

2 **SIXTH CLAIM FOR RELIEF**  
3 ***Plaintiff Against the United States***  
4 **(Gender Violence – Cal. Civ. Code § 52.4)**

5 95. Plaintiff incorporates by this reference every allegation in the preceding paragraphs  
6 as if fully set forth herein.

7 96. Plaintiff brings this claim against the United States under the FTCA based on acts  
8 and/or omissions of Defendant United States and all other Defendants while working in their  
9 official capacities at FCI Dublin. Defendants are employees of BOP and at all relevant times were  
10 acting within the scope of their employment as federal employees in their official uniforms during  
11 work hours.

12 97. Gender violence is a form of sex discrimination and includes a physical intrusion or  
13 physical invasion of a sexual nature under coercive conditions, whether or not those acts have  
14 resulted in criminal complaints, charges, prosecution, or conviction.

15 98. The conditions at FCI Dublin are that of coercive conditions, as evident by officers  
16 regularly withholding things like out of cell time or personal property in exchange for sexual  
17 favors. Further, officers exchanged sexual favors for perks that are not normally available to  
18 inmates such as treats, alcohol, and the ability to roam the halls.

19 99. Defendants discriminated against Plaintiff based on her sex and/or gender when  
20 they repeatedly sexually abused her, physically intruding and invading upon her bodies under  
21 coercive conditions.

22 100. As a direct and proximate result of the foregoing, Plaintiff has suffered emotional  
23 distress as a result, including psychological trauma, distress, anxiety, depression, loss of quality of  
24 life and dignity, as well as medical and economic injuries.

25 101. Pursuant to the FTCA, Plaintiff is entitled to recover damages from the United  
26 States for the wrongful acts/omissions of its employees.

27 **SEVENTH CLAIM FOR RELIEF**  
28 ***Plaintiff Against the United States***  
**(Invasion of Privacy – California common law)**



1 acting within the scope of their employment as federal employees in their official uniforms during  
2 work hours.

3 111. At all relevant times, Defendant United States hired various correctional and/or  
4 administrative personnel at FCI Dublin, including but not limited to wardens, associate wardens,  
5 captains, lieutenants, unit managers, counselors, correctional officers, and investigators.

6 112. At all relevant times, FCI Dublin personnel, including individual Defendants, held  
7 themselves out to Plaintiff as correctional and/or administrative personnel with the knowledge,  
8 capacity, and ability to provide due care in accordance with standards of reasonable care common  
9 and acceptable in the community.

10 113. **Duty.** United States and all other Defendants had a custodial duty, as well as a  
11 mandatory statutory obligation under PREA and BOP policy, to protect Plaintiff, who was  
12 incarcerated by the United States, from foreseeable harm, including sexual abuse. This duty was  
13 non-delegable.

14 114. BOP policy forbids staff in engaging with sexual activity with inmates and staff  
15 may not allow other people to engage in sexual activity. BOP policy makes clear that all sexual  
16 activity with inmates, even non-physical, is against policy. BOP states that there is no such thing  
17 as consensual sex between staff and inmates.

18 115. United States and all other Defendants also had a general duty of care to Plaintiff to  
19 act as a reasonable prudent person would under similar circumstances.

20 116. It was the Defendants' duty to maintain, operate, and control FCI Dublin as a safe  
21 and secure space for incarcerated people.

22 117. It was the Defendants' duty to protect incarcerated people from foreseeable harm  
23 inflicted by BOP personnel.

24 118. **Breach of Duty.** The United States, individually or through its agents, servants,  
25 contractors, and/or employees acting within the scope of their employment, breached those duties  
26 by failing to supervise and operate FCI Dublin in a manner that would have prevented ongoing  
27 sexual abuse and retaliation against Plaintiff.

28 119. A reasonable administrator would have complied with PREA regulations, including

1 safeguarding against retaliation for those who report misconduct.

2 120. A reasonable administrator would also not have exposed Plaintiff to the danger of  
3 ongoing sexual abuse.

4 121. Agents, servants, contractors, and/or employees of Defendant United States knew  
5 or should have known about the ongoing sexual abuse against Plaintiff, and in breaching their duty  
6 directly exposed Plaintiff to an unreasonable risk of bodily injury and sexual assault.

7 122. Despite notice, Defendant United States, through its employees, did not take  
8 reasonable, available measures to abate the risk of sexual abuse to Plaintiff in violation of federal  
9 regulations and BOP policy.

10 123. The United States, through its employees also failed to train, retain, and supervise  
11 officers as well as monitor and investigate them.

12 124. When the employer is aware of its employees' tortious conduct, as it was here, and  
13 it ignores or assists in it, retention of employees does not represent legitimate policy  
14 considerations warranting discretion.

15 125. At all relevant times, each of the Defendants stood in such a relationship with the  
16 other Defendants as to make each of the Defendants liable for the acts and omissions of all other  
17 Defendants in regard to their treatment of Plaintiff.

18 126. **Causation.** The United States' negligence in administering FCI Dublin is a direct  
19 and proximate cause of Plaintiff's injuries, including psychological trauma, distress, anxiety,  
20 depression, loss of quality of life and dignity, as well as medical and economic injuries.

21 127. Officers' employment at FCI Dublin was essential to their commission of tortious  
22 misconduct, which would not have happened absent their employment and privileges.

23 128. Defendant officers' conduct was grossly negligent as they showed complete  
24 disregard for rights and safety of Plaintiff.

25 129. It was foreseeable to FCI Dublin personnel that Plaintiff was at risk of imminent  
26 serious harm including sexual abuse.

27 130. Pursuant to the FTCA, Plaintiff is entitled to recover damages from the United  
28 States for the wrongful acts/omissions of its employees.

1 **NINTH CLAIM FOR RELIEF**  
2 ***Plaintiff Against the United States***  
3 **(Negligent Infliction of Emotional Distress (“NIED”) – California common law)**

4 131. Plaintiff incorporates by this reference every allegation in the preceding paragraphs  
5 as if fully set forth herein.

6 132. Plaintiff brings this claim against the United States under the FTCA based on acts  
7 and/or omissions of Defendant United States and all other Defendants while working in their  
8 official capacities at FCI Dublin. Defendants are employees of BOP and at all relevant times were  
9 acting within the scope of their employment as federal employees in their official uniforms during  
10 work hours.

11 133. The elements of an NIED claim are as follows: (1) the defendant engaged in  
12 negligent conduct/a willful violation of a statutory standard; (2) the plaintiff suffered serious  
13 emotional distress; and (3) the defendant’s negligent conduct/willful violation of statutory  
14 standard was a cause of the serious emotional distress.

15 134. Defendant officers and the United States engaged in negligent conduct and willful  
16 violations of statutory standards by repeatedly sexually abusing Plaintiff, constituting both  
17 extreme and outrageous behavior and the negligence.

18 135. The United States’ negligence in administering FCI Dublin is a direct and  
19 proximate cause of Plaintiff’s injuries, including psychological trauma, distress, anxiety,  
20 depression, loss of quality of life and dignity, as well as medical and economic injuries.

21 136. Pursuant to the FTCA, Plaintiff is entitled to recover damages from the United  
22 States for the wrongful acts/omissions of its employees.

23 **TENTH CLAIM FOR RELIEF**  
24 ***Plaintiff Against the United States***  
25 **(Assault and Battery - California common law)**

26 137. Plaintiff incorporates by this reference every allegation in the preceding paragraphs  
27 as if fully set forth herein.

28 138. Plaintiff brings this claim against the United States under the FTCA based on acts  
and/or omissions of Defendant United States and all other Defendants, while working in their  
official capacities at FCI Dublin. Defendants are employees of BOP and at all relevant times were

1 acting within the scope of their employment as federal employees in their official uniforms during  
2 work hours.

3 139. Assault occurs when (1) a defendant acts, intending to cause harmful or offensive  
4 contact, and (2) the plaintiff reasonably believes that they were about to be touched in a harmful or  
5 offensive manner. *See, e.g.*, Judicial Council of California, California Civil Jury Instructions at  
6 845 (2024).

7 140. A person committed a battery if (1) they touched a plaintiff with the intent to cause  
8 harm, (2) the plaintiff did not consent to the touching, and (3) the plaintiff was harmed by the  
9 touching. *Id.* at 842.

10 141. Defendants subjected Plaintiff to assault and battery when Officer CHAVEZ  
11 grabbed Plaintiff, making unconsented physical contact with her, and violently shaking her.

12 142. As a direct and proximate result of the foregoing, Plaintiff suffered immediate  
13 physical and emotional harm.

14 143. Pursuant to the FTCA, Plaintiff is entitled to recover damages from the United  
15 States for the wrongful acts/omissions of its employees.

16 WHEREFORE, Plaintiff prays for judgment against Defendants as set forth below.

17 **PRAYER FOR RELIEF**

18 Plaintiff prays for judgment against Defendants, and each of them, as follows:

19 144. An award of compensatory, punitive, and nominal damages to Plaintiff in an  
20 amount to be determined at trial;

21 145. An award to Plaintiff, pursuant to 42 U.S.C. §§ 1988 and 12205 of the costs of this  
22 suit and reasonable attorneys' fees and litigation expenses; and

23 146. For such other and further relief as this Court may deem just and proper.  
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DATED: March 7, 2024

Respectfully submitted,

ARNOLD & PORTER KAYE SCHOLER LLP

By: /s/ Carson D. Anderson

Stephen Cha-Kim  
Carson D. Anderson  
Natalie Steiert

DATED: March 7, 2024

RIGHTS BEHIND BARS

By: /s/ Oren Nimni

Ms. Amaris Montes (she/her)  
Mr. Oren Nimni (he/him)

Attorneys for Plaintiff