

IN THE UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF GEORGIA

ALBANY DIVISION

WILLIAM DELONG, KELVIN
HAMPTON, RONALD GLENN,
ALEXANDER LESTER, and TERRY
LOVEION DECARMO,

Plaintiffs

vs.

DOOLY COUNTY, by and through,
Wayne J. West, County Commission
Chairman,

in his official capacity, and

VAN T. PEAUV, Dooly County Sheriff;
RALPH BAILEY, Jail Administrator for
Dooly County Law Enforcement Center;
DRUM ANDERSON, a supervising
Deputy Sheriff, Dooly County; CRAIG
PEAVY, Deputy Sheriff, Dooly County;
SHANESE GATES, Deputy Sheriff,
Dooly County; JEROME ANDERSON,
Deputy Sheriff, Dooly County; FRANK
JASSO, Deputy Sheriff, Dooly County;
and, JOHN DOE, Deputy Sheriff, Dooly
County; JOHN DOE, maintenance
worker; and, PATTY WATSON, Nurse,
Dooly County Jail, all in their individual
capacities,

Defendants

Civil Action No:

COMPLAINT

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**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION**

WILLIAM DELONG, KELVIN HAMPTON,
RONALD GLENN, ALEXANDER LESTER,
and TERRY LOVEION DECARMO,

Plaintiffs

vs.

DOOLY COUNTY, by and through,
WAYNE J. WEST, County Commission
Chairman,

in his official capacity, and

VAN T. PEAUVY, Dooly County Sheriff;
RALPH BAILEY, Jail Administrator for
Dooly County Law Enforcement Center;
DRUM ANDERSON, a supervising Deputy
Sheriff, Dooly County; CRAIG PEAUVY,
Deputy Sheriff, Dooly County; SHANESE
GATES, Deputy Sheriff, Dooly County;
JEROME ANDERSON, Deputy Sheriff,
Dooly County; FRANK JASSO, Deputy
Sheriff, Dooly County; and, JOHN DOE,
Deputy Sheriff, Dooly County; JOHN DOE,
maintenance worker; and, PATTY
WATSON, Nurse, Dooly County Jail, all in
their individual capacities,

Defendants

Civil Action No:

COMPLAINT

COMES NOW, Plaintiffs, **WILLIAM DELONG, KELVIN HAMPTON, RONALD GLENN, ALEXANDER LESTER, and TERRY LOVEION DECARMO**, in the above-styled case, by and through counsel of record, **A. James Rockefeller, Esq.**, and state their claims against **DOOLY COUNTY**, by and through, Defendant **WAYNE J. WEST**, County Commission Chairman, **in his official capacity**, and against Defendants, **VAN T. PEAUVY, Dooly County Sheriff; RALPH BAILEY, Jail Administrator for Dooly County Law Enforcement Center; DRUM ANDERSON, a supervising Deputy Sheriff, Dooly County; CRAIG PEAUVY, Deputy Sheriff, Dooly County; SHANESE GATES, Deputy Sheriff, Dooly County; JEROME ANDERSON, Deputy Sheriff, Dooly County; FRANK JASSO, Deputy Sheriff, Dooly County; and, JOHN DOE, Deputy**

Sheriff, Dooly County; JOHN DOE, maintenance worker; and, PATTY WATSON, Nurse, Dooly County Jail, all in their individual capacities.

I. PRELIMINARY STATEMENT

Plaintiffs, **WILLIAM DELONG, KELVIN HAMPTON, RONALD GLENN, ALEXANDER LESTER, and TERRY LOVEION DECARMO**, in the above styled case, files this Complaint against **DOOLY COUNTY**, by and through, Defendant **WAYNE J. WEST**, County Commission Chairman, **in his official capacity**, and against Defendants, **VAN T. PEAVY, Dooly County Sheriff; RALPH BAILEY, Jail Administrator for Dooly County Law Enforcement Center; DRUM ANDERSON, a supervising Deputy Sheriff, Dooly County; CRAIG PEAVY, Deputy Sheriff, Dooly County; SHANESE GATES, Deputy Sheriff, Dooly County; JEROME ANDERSON, Deputy Sheriff, Dooly County; FRANK JASSO, Deputy Sheriff, Dooly County; and, JOHN DOE, Deputy Sheriff, Dooly County; JOHN DOE, maintenance worker; and, PATTY WATSON, Nurse, Dooly County Jail, all in their individual capacities**, to redress the deprivation under color of law of Plaintiffs' rights, privileges and immunities secured by the Constitution of the United States and the rights, privileges and immunities secured by the Federal Statutes of the United States of America, specifically, 42 U.S.C.A. § 1983 and the "Americans with Disabilities Act" (ADA), 42 U.S.C.A. § 12131 et seq..

A. Federal Claims

In the **First Claim for Relief (14th Amendment) (Excessive Force)**, Plaintiffs pray for relief pursuant to their right to be protected from unlawful and excessive punishment, guaranteed under due process clause of the Fourteenth Amendment the Constitution of the United States and interpretative case law, in that Defendants, under color of law, used "excessive force" against Plaintiffs.

In the **Second Claim for Relief (14th Amendment) (Exposure to Harm)**, Plaintiffs pray for relief pursuant to their right to be protected from unnecessary exposure to harm, guaranteed under due process clause of the Fourteenth Amendment the Constitution of the United States and interpretative case law, which prohibits Defendants, under color of law, from exposing Plaintiffs, or permitting their exposure, to substantial risk of serious harm and disregarded that risk by failing to take reasonable measures to abate it.

In the **Third Claim for Relief (ADA)**, Plaintiff **ALEXANDER LESTER**, a qualified disabled individual, prays for relief for discrimination and violations, with respect to a public entity, for failing to provide Plaintiff with appropriate and timely medical care and treatment, and/or exposing Plaintiff to substantial risk of serious harm and disregarding that risk by failing to take reasonable measures to abate it, contrary to Plaintiff's right's guaranteed by the "Americans with Disabilities Act" (ADA), 42 U.S.C.A. § 12131 et seq..

Said violations caused Plaintiff to suffer physical and emotional damages and Plaintiff seeks compensatory damages, additional damages for special circumstances, punitive damages to redress and remedy the deprivation of his aforesaid rights, and an award of attorneys' fees and costs, pursuant to 42 U.S.C. §1983 and 42 U.S.C. §1988.

B. Pendent State Law Claims

In the **Fourth Claim for Relief (False Imprisonment)**, Plaintiffs seek relief pursuant to O.C.G.A. § 51-7-20, to redress the violation of Plaintiffs' state statutory rights. Defendants acted purposefully and with malice and intent to injure, and in doing so unlawfully restrained Plaintiffs' liberty and personal freedom.

In the **Fifth Claim for Relief (Battery)**, Plaintiffs seek relief pursuant to O.C.G.A. § 51-1-14, to redress the violation of Plaintiffs' state statutory rights. Defendants acted purposefully and with malice and intent to injure, and in doing so did intentionally have unlawful, unjustified and/or unauthorized physical contact with Plaintiffs.

In the **Sixth Claim for Relief (Intentional Infliction of Emotional Distress)**, Plaintiffs seek relief pursuant to O.C.G.A. § 51-12-6, to redress the violation of Plaintiffs' state statutory rights. Defendants acted purposefully and with malice and intent to injure, and in doing so did intentionally or recklessly engage in extreme or outrageous conduct which caused severe emotional distress to Plaintiffs.

II. JURISDICTION AND VENUE

1.

This claim concerns the violation of civil rights and this Court has jurisdiction over the Federal claims as alleged herein, pursuant to **28 U.S.C.A. §§ 1331 and 1343**, and **42 U.S.C.A. § 12131 et seq.** Jurisdiction is proper in the Middle District of Georgia, Albany Division, where

at least one of the Defendants resides and some of the acts or omissions occurred, pursuant to **28 U.S.C.A. § 1391**.

2.

Venue is proper in the Middle District of Georgia, Macon Division, where at least one of the Defendants resides and some of the acts or omissions occurred, pursuant to **28 U.S.C.A. § 1391**.

III. PARTIES

3.

Plaintiffs **WILLIAM DELONG, KELVIN HAMPTON, RONALD GLENN, ALEXANDER LESTER, and TERRY LOVEION DECARMO** reallege paragraphs 1 through 2, above, as if same were set out herein verbatim.

4.

Plaintiffs **WILLIAM DELONG, KELVIN HAMPTON, RONALD GLENN, ALEXANDER LESTER, and TERRY LOVEION DECARMO**, at all relevant times, were pre-trial detainees and residents of the Dooly County Law Enforcement Center (hereinafter "Dooly LEC"), Dooly County, Georgia; Plaintiffs are no longer residents of the Dooly County LEC.

5.

At all times pertinent hereto, Plaintiff **ALEXANDER LESTER** was "a qualified individual with a disability" within the meaning of the "Americans with Disabilities Act" (ADA), **42 U.S.C.A. § 12131 et seq.**

6.

Defendant **DOOLY COUNTY** is a body politic capable of being sued in this Court, duly organized and existing under the laws of the State of Georgia. Defendant **DOOLY COUNTY** is responsible for the training, policies, practices and customs of its Jails, Correctional Institutions, and Detention Centers, as well as for the hiring, training, supervision, control and discipline of its Sheriff, Deputy Sheriffs, Jailors, and Jail Personnel. Defendant **DOOLY COUNTY** is and was the employer of its Sheriff, Deputy Sheriffs, Jailors, and Jail Personnel named herein as individual defendants. Defendant **DOOLY COUNTY** was also responsible for the policies, procedures, and other circumstances concerning the facilities of the Dooly County LEC. At all times pertinent

hereto, the Dooly County LEC was a “public entity” within the meaning of the “Americans with Disabilities Act” (ADA), **42 U.S.C.A. § 12131 et seq.**

Defendant **DOOLY COUNTY** acts or fails to act through its policy-making officials, including, but not limited to, Defendant **WAYNE J. WEST**, Dooly County Commission Chairman, and Defendant **VAN T. PEAVY**, Dooly County Sheriff, and the staff, deputies, jailors, and jail personnel, employed at the Dooly County LEC, including the above-named individual defendants. The acts and edicts of these policy-making officials also represent the training, policies, practices and customs of **DOOLY COUNTY**.

Defendant **DOOLY COUNTY** may be served by and through its County Commission Chairman, Defendant **WAYNE J. WEST**, County Commission Chairman, at the Dooly County Commissioner’s Office, 104 Second Street, Vienna, Dooly County, Georgia, 31092.

7.

Upon information and belief, Defendant **VAN T. PEAVY** is a resident of Dooly County, State of Georgia.

At all relevant times hereto, Defendant **VAN T. PEAVY** was the Dooly County Sheriff, and was responsible for the maintenance and operation of the Dooly County LEC. These responsibilities included establishing, or failing to establish, the training, policies, practices, and regulations for the conduct of the supervisory staff, Deputy Sheriffs and Jailors, and all other staff of the Dooly County LEC. Defendant **VAN T. PEAVY** was constitutionally and statutorily responsible for the operation, practices, and conditions of the Dooly County LEC; maintaining the safety of the inmate and pre-trial detainee population; and, supervising all jail officials and employees.

Upon information and belief, Defendant **VAN T. PEAVY** at all relevant times hereto was a final policy-making official with respect to the unconstitutional acts and omissions alleged herein that resulted in harm to the Plaintiff. He is sued here in his individual capacity, pursuant to 42 U.S.C.A. § 1983.

8.

Upon information and belief, Defendant **RALPH BAILEY** is a resident of Dooly County, State of Georgia, and may be personally served at Defendant's place of employment, to wit,

Dooly County LEC, 576 Pinehurst-Hawkinsville Road, Pinehurst, Dooly County, Georgia, 31070.

At all relevant times hereto, Defendant **RALPH BAILEY** was the Jail Administrator for the Dooly County LEC, and was responsible for the maintenance and operation of the Dooly County LEC. These responsibilities included establishing, or failing to establish, the training, policies, practices, and regulations for the conduct of the supervisory staff, Deputy Sheriffs and Jailors, and all other staff of the Dooly County LEC. Defendant **RALPH BAILEY** was constitutionally and statutorily responsible for the operation, practices, and conditions of the Dooly County LEC; maintaining the safety of the inmate and pre-trial detainee population; and, supervising all jail officials and employees. Defendant **RALPH BAILEY** was at all times herein acting in that capacity.

Upon information and belief, Defendant **RALPH BAILEY** at all relevant times hereto was a final policy-making official with respect to the unconstitutional acts and omissions alleged herein that resulted in harm to the Plaintiff. He is sued here in his individual capacity, pursuant to 42 U.S.C.A. § 1983.

9.

Upon information and belief, Defendant **CRAIG PEAVY** is a resident of Dooly County, State of Georgia, and may be personally served at Defendant's place of employment, to wit, Dooly County LEC, 576 Pinehurst-Hawkinsville Road, Pinehurst, Dooly County, Georgia, 31070.

At all times pertinent hereto, Defendant **CRAIG PEAVY** was a Captain, a Deputy Sheriff, and Jailor, with the Dooly County LEC, and responsible for the maintenance and operation of the Dooly County LEC. These responsibilities included establishing, or failing to establish, the training, policies, practices, and regulations for the conduct of the supervisory staff, Deputy Sheriffs and Jailors, and all other staff of the Dooly County LEC. Defendant **CRAIG PEAVY** was constitutionally and statutorily responsible for the operation, practices, and conditions of the Dooly County LEC; maintaining the safety of the inmate and pre-trial detainee population; and, supervising all jail officials and employees. Defendant **CRAIG PEAVY** was at all times herein acting in that capacity. He is sued here in his individual capacity, pursuant to 42 U.S.C.A. § 1983.

Upon information and belief, **CRAIG PEAVY** at all relevant times hereto was a final policy-making official with respect to the unconstitutional acts and omissions alleged herein that resulted

in harm to the Plaintiff. He is sued here in his individual capacity, pursuant to 42 U.S.C.A. § 1983.

10.

Upon information and belief, Defendant **SHANESE GATES** is a resident of Dooly County, State of Georgia, and may be personally served at Defendant's place of employment, to wit, Dooly County LEC, 576 Pinehurst-Hawkinsville Road, Pinehurst, Dooly County, Georgia, 31070.

At all times pertinent hereto, Defendant **SHANESE GATES** was a Deputy Sheriff and Jailor with the Dooly County LEC. Defendant **SHANESE GATES** was constitutionally and statutorily responsible for the operation, practices, and conditions of the Dooly County LEC, and maintaining the safety of its inmate and pre-trial detainee population. Defendant **SHANESE GATES** was at all times herein acting in that capacity. Defendant **SHANESE GATES** is sued here in an individual capacity, pursuant to 42 U.S.C.A. § 1983.

11.

Upon information and belief, Defendant **DRUM ANDERSON** is a resident of Dooly County, State of Georgia, and may be personally served at Defendant's place of employment, to wit, Dooly County LEC, 576 Pinehurst-Hawkinsville Road, Pinehurst, Dooly County, Georgia, 31070.

At all times pertinent hereto, Defendant **DRUM ANDERSON** was a Deputy Sheriff and Jailor with the Dooly County LEC. He was constitutionally and statutorily responsible for the operation, practices, and conditions of the Dooly County LEC, and maintaining the safety of its inmate and pre-trial detainee population. Defendant **DRUM ANDERSON** was at all times herein acting in that capacity. He is sued here in his individual capacity, pursuant to 42 U.S.C.A. § 1983.

12.

Upon information and belief, Defendant **JEROME ANDERSON** is a resident of Dooly County, State of Georgia, and may be personally served at Defendant's place of employment, to wit, Dooly County LEC, 576 Pinehurst-Hawkinsville Road, Pinehurst, Dooly County, Georgia, 31070.

At all times pertinent hereto, Defendant **JEROME ANDERSON** was a Deputy Sheriff and Jailor with the Dooly County LEC. He was constitutionally and statutorily responsible for the

operation, practices, and conditions of the Dooly County LEC, and maintaining the safety of its inmate and pre-trial detainee population. Defendant **JEROME ANDERSON** was at all times herein acting in that capacity. He is sued here in his individual capacity, pursuant to 42 U.S.C.A. § 1983.

13.

Upon information and belief, Defendant **FRANK JASSO** is a resident of Dooly County, State of Georgia, and may be personally served at Defendant's place of employment, to wit, Dooly County LEC, 576 Pinehurst-Hawkinsville Road, Pinehurst, Dooly County, Georgia, 31070.

At all times pertinent hereto, Defendant **FRANK JASSO** was a Deputy Sheriff and Jailor with the Dooly County LEC. He was constitutionally and statutorily responsible for the operation, practices, and conditions of the Dooly County LEC, and maintaining the safety of its inmate and pre-trial detainee population. Defendant **FRANK JASSO** was at all times herein acting in that capacity. He is sued here in his individual capacity, pursuant to 42 U.S.C.A. § 1983.

14.

Upon information and belief, Defendant **PAULA COLEMAN** is a resident of Dooly County, State of Georgia, and may be personally served at Defendant's place of employment, to wit, Dooly County LEC, 576 Pinehurst-Hawkinsville Road, Pinehurst, Dooly County, Georgia, 31070.

At all times pertinent hereto, Defendant **PAULA COLEMAN** was a Deputy Sheriff and Jailor with the Dooly County LEC. She was constitutionally and statutorily responsible for the operation, practices, and conditions of the Dooly County LEC, and maintaining the safety of its inmate and pre-trial detainee population. Defendant **PAULA COLEMAN** was at all times herein acting in that capacity. She is sued here in her individual capacity, pursuant to 42 U.S.C.A. § 1983.

15.

Upon information and belief, Defendant **JOHN DOE** is a resident of Dooly County, State of Georgia, and may be personally served at Defendant's place of employment, to wit, Dooly County LEC, 576 Pinehurst-Hawkinsville Road, Pinehurst, Dooly County, Georgia, 31070.

At all times pertinent hereto, Defendant **JOHN DOE** was a Deputy Sheriff and Jailor with the Dooly County LEC, on duty as a third-shift deputy/jailor, on or about November 24, 2002. He

was constitutionally and statutorily responsible for the operation, practices, and conditions of the Dooly County LEC, and maintaining the safety of its inmate and pre-trial detainee population. Defendant **JOHN DOE** was at all times herein acting in that capacity. He is sued here in his individual capacity, pursuant to 42 U.S.C.A. § 1983.

16.

Upon information and belief, Defendant **JOHN DOE** is a resident of Dooly County, State of Georgia, and may be personally served at Defendant's place of employment, to wit, Dooly County LEC, 576 Pinehurst-Hawkinsville Road, Pinehurst, Dooly County, Georgia, 31070.

At all times pertinent hereto, Defendant **JOHN DOE** was a Deputy Sheriff and Jailor with the Dooly County LEC. He was constitutionally and statutorily responsible for the operation, practices, and conditions of the Dooly County LEC, and maintaining the safety of its inmate and pre-trial detainee population. Defendant **JOHN DOE** was at all times herein acting in that capacity. He is sued here in his individual capacity, pursuant to 42 U.S.C.A. § 1983.

17.

Upon information and belief, Defendant **JOHN DOE** is a resident of Dooly County, State of Georgia, and may be personally served at Defendant's place of employment, to wit, Dooly County LEC, 576 Pinehurst-Hawkinsville Road, Pinehurst, Dooly County, Georgia, 31070.

At all times pertinent hereto, Defendant **JOHN DOE** was a maintenance worker with the Dooly County LEC, possibly known as "Chip." He/she was constitutionally and statutorily responsible for the operation, practices, and conditions of the Dooly County LEC, and maintaining the safety of its inmate and pre-trial detainee population. Defendant **JOHN DOE** was at all times herein acting in that capacity. He/she is sued here in his/her individual capacity, pursuant to 42 U.S.C.A. § 1983.

IV. FACTUAL ALLEGATIONS

19.

Upon information and belief, at all relevant times hereto, the **Dooly County LEC** was a county jail institution for Dooly County, housing inmates and pre-trial detainees for Dooly County and for other neighboring counties in the Middle Georgia area.

20.

Upon information and belief, at all relevant times hereto, the Dooly County LEC was maintained and organized by the Dooly County Sheriff's Department, for Dooly County, and principally by Defendant **VAN T. PEAVY**, his supervisory staff, Deputy Sheriffs, Jailors, and other jail personnel.

21.

Upon information and belief, at all relevant times hereto, the Dooly County LEC, and its staff, were required by State and Federal law to house all LEC inmates and pre-trial detainees in safe, healthy, and sanitary conditions; provide them with appropriate medical care; only using that level of force and discipline as might be absolutely necessary to maintain order and safety in the facility; to avoid using punitive force long after the need to do so has abated; and to avoid punitive treatment which amounts to gratuitous infliction of "wanton and unnecessary" pain.

22.

Generally, the restraint chair system involved sitting the offending inmate or pre-trial detainee in a wooden chair and strapping his/her ankles and wrists to the chair, preventing all movement, except the head.

23.

The restraint chair could be moved into the inmate's or pre-trial detainee's cell, but it was generally kept near an open garage/holding area, which was exposed to the elements when the door was open, as it often was.

24.

Commonly, inmates or pre-trial detainees would be left sitting in the chair, wet or poorly clothed, for as long as five (5) hours, if not longer, exposed to the elements, even with temperatures approaching freezing.

25.

Individuals so affixed might be fed, but were forced to relieve their bodily fluids and elements while sitting in the chair, as opposed to being permitted to use a commode.

26.

In disciplining or punishing inmates or pre-trial detainees, it was common for the restraint chair to be used in conjunction with, immediately after, or with the threat of pepper spraying.

27.

Upon information and belief, at all relevant times hereto, there were no written guidelines in place concerning, when, under what circumstances, or how the restraint chair could be used.

28.

In addition, upon information and belief, at all relevant times hereto, there were no specific requirement that the use of the restraint chair be approved by a high-ranking official in the Dooly County Sheriff's Department.

29.

Finally, upon information and belief, at all relevant times hereto, there was not any requirement that the use of the restraint chair be recorded or memorialized in some fashion, including, but not limited to, a "log" monitoring condition of the inmates or pre-trial detainee, and the length of time spent in the restraint chair.

30.

As such, by using the restraint chair as a punitive measure to discipline inmates or pre-trial detainees, Defendants gratuitously inflicted "wanton and unnecessary" pain in violation of basic principles of dignity guaranteed to such individuals, by the 14th Amendment of the United States Constitution; to the extent that the use of the restraint chair as a disciplinary device might have been warranted, such inmates or pre-trial detainees were kept in the restraint chair beyond what was necessary for any acceptable disciplinary or safety purposes and long after the need to do so had abated.

31.

Furthermore, when pepper spraying is used in conjunction with, immediately after, or as the threat to, the restraint chair, as a combined punitive and disciplinary measure, Defendants gratuitously inflict "wanton and unnecessary" pain in violation of basic principles of dignity guaranteed by the 14th Amendment of the United States Constitution to the inmates and pre-trial detainees; to the extent that the combined use of pepper spray and the chair restraint might be

warranted, inmates and pre-trial detainees are pepper sprayed beyond what is necessary for any acceptable disciplinary or safety purposes and long after the need to do so is abated.

32.

Upon information and belief, at all relevant times hereto, it was also a common practice to deny a writing utensil to an inmate or pre-trial detainee wishing to file a grievance, concerning the illegitimate and/or illegal use of the restraint chair, thereby frustrating his or her attempt to do so.

33.

Upon information and belief, at all relevant times hereto, use of this restraint chair was a common practice, policy or custom, approved or tolerated by Dooly County LEC supervisors and personnel, even Defendant **VAN T. PEAVY**.

34.

Upon information and belief, at all relevant times hereto, use of this restraint chair continues today as a common practice, policy or custom, approved or tolerated by Dooly County LEC supervisors and personnel, even Defendant **VAN T. PEAVY**.

35.

Plaintiffs **WILLIAM DELONG, KELVIN HAMPTON, RONALD GLENN, ALEXANDER LESTER, and TERRY LOVEION DECARMO** reallege paragraphs 1 through 34, above, as if same were set out herein verbatim.

36.

At all relevant times hereto, Plaintiffs **WILLIAM DELONG, KELVIN HAMPTON, RONALD GLENN, ALEXANDER LESTER, and TERRY LOVEION DECARMO**, were pre-trial detainees and residents of the Dooly LEC, Dooly County, Georgia. Dooly County, the Dooly County LEC, and their staff and personnel, were required to keep Plaintiffs safe, healthy, and provide them with adequate medical care and treatment.

William Delong

37.

On or about approximately November 17, 2002, Plaintiff **WILLIAM DELONG** was transferred to the **Dooly County LEC**, as a pre-trial detainee for Houston County.

38.

About a week after his transfer, on or about November 24, 2002, Plaintiff Delong was placed in “lockdown” confinement, because he was suspected of being involved in an altercation in the jail. Later this same day/evening, Plaintiff Delong broke a sprinkler head in his cell, drenching himself in water.

39.

In response, presently unidentified Defendant **JOHN DOE**, Deputy Sheriff and jailor for the Dooly LEC, took Plaintiff Delong out near a loading area, where there is a garage door.

40.

In the garage area, Defendant **JOHN DOE** strapped Plaintiff into a restraint chair, securing his ankles and wrists to the chair, and forced Plaintiff to sit in the restraint chair, with the garage door opened, exposed to nighttime and early morning temperatures of no more than forty (40°) degrees Fahrenheit, still wet from having drenched himself from the broken sprinkler in his cell.

41.

In addition to this deputy/jailor, there were at least two (2) other Deputy Sheriffs/Jailors on duty, each of whom is presently unidentified as Defendants **JOHN DOES**, who were aware of, approved of, or facilitated Plaintiff being strapped into this restraint chair system, and did nothing to prevent it.

42.

Exposing Plaintiff to such conditions, when he was no longer a threat to any person's safety or well-being, was nothing short of gratuitous torture and served no legitimate law enforcement purpose.

43.

At some point between December 25, 2002, and January 1, 2003, Plaintiff Delong was placed back in “lockdown” confinement, following another altercation in the general population, in which he was suspected to have participated.

44.

Plaintiff **LOVEION DECARMO**, another inmate in segregation at the time, began yelling

and Defendant **JOHN DOES**, the Deputy Sheriffs/jailors on duty, thought that Plaintiff Delong had been yelling.

45.

Based on this false impression, Defendant **JOHN DOES** returned Plaintiff Delong to the restraint chair, where he was once again strapped into the chair.

46.

Using the restraint chair in response to ordinary jail disturbances, whether or not committed by Plaintiff, when he was not a threat to any person's safety or well-being, was nothing short of gratuitous torture and served no legitimate law enforcement purpose.

47.

Later that same day, Plaintiff Delong began kicking his door; Defendant **RALPH BAILEY**, the jail administrator, told Plaintiff that if he continued to kick his door, he would be returned to the restraint chair.

48.

Once again, Plaintiff **LOVEION DECARMO**, another inmate in segregation at the time, began yelling and Defendant **JOHN DOES**, the Deputy Sheriffs/jailors on duty, thought that Plaintiff Delong had been yelling.

49.

Based on this false impression, Defendant **JOHN DOES** returned Plaintiff Delong to the restraint chair, where he was once again strapped into the chair.

50.

This time, after Plaintiff was Delong strapped into the restraint chair, Defendant **PAULA COLEMAN** took a can of pepper spray and sprayed Plaintiff Delong in his eyes and all over his body; Plaintiff was crying and spitting up as a result of the pepper spray.

51.

One of the **JOHN DOE** Defendants removed Plaintiff Delong from his cell five (5) minutes after he was sprayed and took him to the garage area to rinse him off with a water hose (Plaintiff Delong was still strapped down in the chair at this time).

52.

Around dinnertime, Plaintiff Delong, still in the restraint chair, told Defendant **JOHN DOE**, a Deputy Sheriff/Jailor, that he had to use the bathroom; Defendant **JOHN DOE** responded by telling Plaintiff Delong that he had to use the bathroom on himself, since that was the whole point of the chair.

53.

Later, Defendant **JOHN DOE**, a Deputy Sheriff/Jailor, brought Plaintiff Delong his tray and freed one of his hands so that he could eat; a tall Styrofoam cup of juice was also on Plaintiff Delong's tray.

54.

After finishing his juice, Plaintiff Delong urinated in the cup; shortly after doing so, Plaintiff Delong accidentally hit the cup which spilled all over his tray (by this time he had already finished eating).

55.

Defendant **JOHN DOE**, another Deputy Sheriff/Jailor, passed by Plaintiff Delong and saw the urine on the tray, Defendant **JOHN DOE** said, "You don't wanna pee on yourself but on the tray instead."

56.

Defendant **JOHN DOE** then pepper sprayed Plaintiff in his eyes.

57.

Defendant **PAULA COLEMAN** instructed Defendant **JOHN DOE** to put Plaintiff Delong's free hand back in the restraint.

58.

Defendant **PAULA COLEMAN** then emptied a whole can of pepper spray on Plaintiff Delong's face; other Defendants, all **JOHN DOES**, and Deputy Sheriffs/Jailors, laughed as this took place.

59.

A couple of these Defendants, **JOHN DOES**, then hosed down Plaintiff Delong and made him sit in the cage for one (1) hour until the next shift came on duty and finally released him from the chair.

60.

In this instance, using the restraint chair in response to ordinary jail disturbances, whether or not committed by Plaintiff, when he was not a threat to any person's safety or well-being, in conjunction with repeated sadistic use of pepper spray, was nothing short of gratuitous torture and served no legitimate law enforcement purpose.

61.

By using the restraint chair in the above manner, as a punitive measure to discipline Plaintiff, Defendants gratuitously inflicted "wanton and unnecessary" pain in violation of basic principles of dignity guaranteed by the 14th Amendment of the United States Constitution to Plaintiff, as a pre-trial detainee; to the extent that the use of the restraint chair as a disciplinary device might have been warranted under the circumstances, Plaintiff was kept in the restraint chair beyond what was necessary for any acceptable disciplinary or safety purposes and long after the need to so had abated.

62.

Furthermore, by pepper spraying Plaintiff in conjunction with the use of the restraint chair, as combined punitive and disciplinary measures, Defendants gratuitously inflicted "wanton and unnecessary" pain in violation of basic principles of dignity guaranteed by the 14th Amendment of the United States Constitution to Plaintiff, as a pre-trial detainee; to the extent that the use of these combined punitive and disciplinary measures, might have been warranted as disciplinary devices under the circumstances, Plaintiff was pepper sprayed beyond what was necessary for any acceptable disciplinary or safety purposes and long after the need to do so had abated.

63.

Plaintiff Delong requested an opportunity to fill out a grievance form to complain of the improper treatment he had received while in the Dooly LEC.

64.

Plaintiff Delong was not provided with the necessary form or writing utensil in response to this request.

65.

Plaintiff's attempts to comply with the Prison Litigation Reform Act ("PLRA") and file a

grievance, formally complaining about the abuse and poor treatment were frustrated by Defendants, leaving him unable and excused from doing so, prior to filing suit.

Kelvin Hampton

66.

On January 2, 2003, Plaintiff, **KELVIN HAMPTON**, was a pre-trial detainee at the **Dooly County LEC**, and was placed in “lockdown” confinement, because of an incident in the jail, involving a shower-head.

67.

The next day, on January 3, 2003, Plaintiff, **KELVIN HAMPTON**, requested a vegetarian diet, was told by a nurse that he would have to trade his meal with another inmate (whose food was exactly the same), and Plaintiff Hampton threw his sandwich out of his cell. In retaliation for this act, Defendant **JOHN DOES**, Deputy Sheriffs/Jailors, came to Plaintiff’s cell, took him to the restraint chair, and made him sit in it, with ankles and wrists bound to the chair, from 1:00 p.m. to 6:00 p.m., without so much as a bathroom break; Plaintiff was also sprayed all over with pepper spray as punishment for throwing his food.

68.

The next day, on January 4, 2003, Plaintiff, **KELVIN HAMPTON**, again requested a vegetarian diet when presented with a sausage sandwich, Plaintiff Hampton threw his sandwich against the wall. In retaliation for this act, Defendant **DRUM ANDERSON** came to Plaintiff’s cell, took him to the restraint chair, and made him sit in it, with ankles and wrists bound to the chair, from 12:30 p.m. to 5:30 p.m., without so much as a bathroom break.

69.

The next day, on January 5, 2003, Plaintiff, **KELVIN HAMPTON**, requested an opportunity to call his attorney – this request was denied.

70.

Plaintiff, then, requested paper and a writing utensil in order to write out and file a grievance about how he was being treated; this request was specifically made of Defendant **DRUM ANDERSON**.

71.

In response, Defendant **DRUM ANDERSON** told Plaintiff Hampton that he “hoped he would resist him, because he [Defendant Anderson] would whoop his ass.”

72.

Defendant **DRUM ANDERSON** then entered Plaintiff’s cell, sprayed Plaintiff Hampton with pepper spray, while he was on his bunk, sprayed Plaintiff Hampton again as Defendant Anderson removed him from the cell, and finally sprayed Plaintiff Hampton, a third time – directly in the face – after placing Plaintiff in the restraint chair.

73.

Plaintiff Hampton’s eyes were shut for at least two (2) hours, while his ankles and wrists were bound to the restraint chair, because of the quantity of pepper spray in his eyes.

74.

In each of these instances, by using the restraint chair in the above manner, as a punitive measure to discipline Plaintiff, Defendants gratuitously inflicted “wanton and unnecessary” pain in violation of basic principles of dignity guaranteed by the 14th Amendment of the United States Constitution to Plaintiff, as a pre-trial detainee; to the extent that the use of the restraint chair as a disciplinary device might have been warranted under the circumstances, Plaintiff was kept in the restraint chair beyond what was necessary for any acceptable disciplinary or safety purposes and long after the need to so had abated.

75.

Furthermore, in each of these instances, by pepper spraying Plaintiff in conjunction with the use of the restraint chair, as combined punitive and disciplinary measures, Defendants gratuitously inflicted “wanton and unnecessary” pain in violation of basic principles of dignity guaranteed by the 14th Amendment of the United States Constitution to Plaintiff, as a pre-trial detainee; to the extent that the use of these combined punitive and disciplinary measures, might have been warranted as disciplinary devices under the circumstances, Plaintiff was pepper sprayed beyond what was necessary for any acceptable disciplinary or safety purposes and long after the need to do so had abated.

76.

Plaintiff’s attempts to comply with the Prison Litigation Reform Act (“PLRA”) and file a

grievance, formally complaining about the abuse and poor treatment were frustrated by Defendants, leaving him unable and excused from doing so, prior to filing suit.

Ronald Glenn

77.

On April 2, 2003, **RONALD GLENN**, was a pre-trial detainee at the **Dooly County LEC**, and was placed in “lockdown” confinement.

78.

On this same day, an inmate was banging on a cell door and raising a ruckus.

79.

Believing that Plaintiff Glenn was involved, three (3) Defendants, **PAULA COLEMAN**, **JOHN DOE**, Deputy Sheriffs/Jailors, and **JOHN DOE**, maintenance worker, went to Plaintiff Glenn’s cell to restrain him.

80.

After pinning his arms behind his back, Defendants threw Plaintiff Glenn to the ground and kned his right hand so hard as to break it.

81.

Defendants then sprayed Plaintiff Glenn’s face with pepper spray, brought him to the jail’s garage area, which holds the restraint chairs; strapped Plaintiff Glenn into the restraint chair, with his ankles and wrists bound to the chair; and sprayed Plaintiff with a water hose; before returning him to his cell, still strapped in the restraint chair.

82.

While still in the restraint chair, bound and wet, Plaintiff Glenn was placed under the air conditioner vent in his cell, and left shivering like that, for over two (2) hours.

83.

By breaking Plaintiff Glenn’s hand and using the restraint chair in the above manner, as a punitive measure to discipline Plaintiff, Defendants gratuitously inflicted “wanton and unnecessary” pain in violation of basic principles of dignity guaranteed by the 14th Amendment of the United States Constitution to Plaintiff, as a pre-trial detainee; to the extent that the force used to restrain Plaintiff, and the use of the restraint chair as a disciplinary device, might have

been warranted under the circumstances, Defendants used excessive force in doing so and Plaintiff was kept in the restraint chair beyond what was necessary for any acceptable disciplinary or safety purposes and long after the need to so had abated.

84.

Furthermore, by pepper spraying Plaintiff in conjunction with the use of the restraint chair, as combined punitive and disciplinary measures, Defendants gratuitously inflicted “wanton and unnecessary” pain in violation of basic principles of dignity guaranteed by the 14th Amendment of the United States Constitution to Plaintiff, as a pre-trial detainee; to the extent that the use of these combined punitive and disciplinary measures, might have been warranted as disciplinary devices under the circumstances, Plaintiff was pepper sprayed beyond what was necessary for any acceptable disciplinary or safety purposes and long after the need to do so had abated.

85.

Plaintiff Glenn requested an opportunity to fill out a grievance form to complain of the improper treatment he had received while in the Dooly LEC.

86.

Plaintiff Glenn was not provided with the necessary form or writing utensil in response to this request.

87.

Plaintiff’s attempts to comply with the Prison Litigation Reform Act (“PLRA”) and file a grievance, formally complaining about the abuse and poor treatment were frustrated by Defendants, leaving him unable and excused from doing so, prior to filing suit.

Alexander Lester

88.

On June 11, 2003, Plaintiff, **ALEXANDER LESTER**, was transferred to the **Dooly County LEC**, as a pre-trial detainee for Houston County.

89.

At all relevant times hereto, Plaintiff Lester suffered from severe depression, as well as other mental illnesses that make him suicidal at times.

90.

Prior to being incarcerated, Plaintiff Lester was required to go to the Phoenix Center twice a month in order to receive his medication; Plaintiff Lester was also ordered by his mental health providers and, then, his parole officer, to stay on his medication, as well as to attend counseling sessions as a condition of his parole.

91.

All of this was either known by, or should have been known by, all relevant Defendants, prior to any of the alleged wrongful conduct having occurred.

92.

These facts were clearly known to Plaintiff Lester's parole officer who knows what happens to Plaintiff when he goes without his medication.

93.

While Plaintiff Lester was housed at the Dooly County LEC, Plaintiff received no medication at all and essentially no medical treatment, despite the fact he suffered from a recognized mental health disability.

94.

When Plaintiff Lester begged for his medication or some type of mental health treatment, Defendant **PATTY WATSON** told him that he was "fakin' it," or that "You don't need your medication," and refused to authorize a medical doctor to see him.

95.

Shortly after arriving at the Dooly LEC, there was an incident where Plaintiff Lester was falsely blamed for the actions of one of the other inmates.

96.

In retaliation for what he was only suspected of having done, Defendant **JOHN DOES**, Deputy Sheriffs/Jailors, came to Plaintiff Lester's cell, took him to the restraint chair, and made him sit in it, with ankles and wrists bound to the chair, for a period of time.

97.

While Plaintiff Lester was housed at the Dooly County LEC, Plaintiff tried to commit suicide on at least two (2) different occasions.

98.

The first time was about a week after he arrived at the Dooly County LEC, when Plaintiff Lester cut his wrists.

99.

In retaliation for having done so, Defendant **JOHN DOES**, Deputy Sheriffs/Jailors, came to Plaintiff Lester's cell, took him to the restraint chair, and made him sit in it, with ankles and wrists bound to the chair, from 1:00 p.m. to 6:00 p.m., without so much as a bathroom break.

100.

When Plaintiff asked to use the bathroom, one of the Defendants told Plaintiff that "the chair was his bathroom."

101.

Plaintiff Lester received no medical treatment over the next month and, specifically, was not seen by a medical doctor, as he repeatedly requested; as his pleas for help went unanswered, he became increasingly depressed, suicidal, and started having hallucinations and hearing voices.

102.

As a consequence of his deteriorating mental state, sometime in July of 2003, in a second suicide attempt, Plaintiff Lester cut his wrist, as well as tried to hang himself with a sheet, and smeared feces all over his body.

103.

In response to this second suicide attempt, Defendant Watson told Plaintiff he was "full of crap," and, as before, refused his pleas for appropriate mental health treatment.

104.

In retaliation for this second suicide attempt, Defendant **JOHN DOES**, Deputy Sheriffs/Jailors, came to Plaintiff Lester's cell to pepper spray him.

105.

When Plaintiff Lester knocked the can away, they took him to the restraint chair, and made him sit in it, with ankles and wrists bound to the chair, for an hour, still smeared with feces.

106.

After this hour was up, he was hosed down and cleaned with the same soap used to clean the motor vehicles; he remained in the chair for another three (3) or four (4) hours.

107.

Subsequently, when Plaintiff asked to use the bathroom, one of the Defendants again told Plaintiff that “the chair was his bathroom.

108.

Finally, sometime in September of 2003, for a fourth (4th) time, Plaintiff Lester was placed in the restraint chair for approximately two (2) hours and pepper sprayed, one final time, by Defendant **GATES**, a Deputy/Jailor, for allegedly kicking on his door.

109.

In each of these instances, Plaintiff was essentially tortured, treated inhumanely, and without proper appreciation for his fragile mental state.

110.

By using the restraint chair as a punitive measure to discipline Plaintiff, Defendants gratuitously inflicted “wanton and unnecessary” pain in violation of basic principles of dignity guaranteed by the 14th Amendment of the United States Constitution to Plaintiff, as a pre-trial detainee; to the extent that the use of the restraint chair as a disciplinary device might have been warranted in these instances, Plaintiff was kept in the restraint chair beyond what was necessary for any acceptable disciplinary or safety purposes and long after the need to do so had abated.

111.

Furthermore, in each of these instances, by pepper spraying Plaintiff in conjunction with the use of the restraint chair, as combined punitive and disciplinary measures, Defendants gratuitously inflicted “wanton and unnecessary” pain in violation of basic principles of dignity guaranteed by the 14th Amendment of the United States Constitution to Plaintiff, as a pre-trial detainee; to the extent that the use of these combined punitive and disciplinary measures, might have been warranted as disciplinary devices under the circumstances, Plaintiff was pepper sprayed beyond what was necessary for any acceptable disciplinary or safety purposes and long after the need to do so had abated.

112.

Plaintiff Lester requested an opportunity to fill out a grievance form to complain of the improper treatment he had received while in the Dooly LEC.

113.

Plaintiff was specifically told by Defendant **CRAIG PEAVY** that he would not be permitted to have a writing utensil while in the “crisis” or “stripped” cell, where Plaintiff Lester was kept for most of his stay at the Dooly LEC.

114.

Lacking a writing utensil, and not having been provided with a grievance form, Plaintiff Lester was unable to fill one out.

115.

Plaintiff’s attempts to comply with the Prison Litigation Reform Act (“PLRA”) and file a grievance, formally complaining about the abuse and poor treatment were frustrated by Defendants, leaving him unable and excused from doing so, prior to filing suit.

Terry Loveion DeCarmo

116.

On April 29, 2002, Plaintiff, **TERRY LOVEION DECARMO**, was a pre-trial detainee at the **Dooly County LEC**.

117.

Sometime around July 11, 2003, Plaintiff DeCarmo was asked by Defendant **CRAIG PEAVY**, a Deputy Sheriff/Jailor, or Defendants **JOHN DOE**, Deputy Sheriffs/Jailors, to clean a vent in his cell for inspection.

118.

Plaintiff Decarmo, who was already cleaning another area of his room, dropped his brush and sat on his bed, refusing to perform the task.

119.

Defendant **CRAIG PEAVY** entered Plaintiff DeCarmo’s room and stood over Plaintiff’s bed with a can of pepper spray in his hand.

120.

Before Defendant Peavy could spray him, Plaintiff was permitted to get out of his bunk; Defendant Peavy then took Plaintiff to the garage area, where Plaintiff was made to sit in the restraint chair, with ankles and wrists bound to the chair, for over five (5) hours, without so much as a bathroom break.

121.

By using the restraint chair as a punitive measure to discipline Plaintiff, Defendants gratuitously inflicted “wanton and unnecessary” pain in violation of basic principles of dignity guaranteed by the 14th Amendment of the United States Constitution to Plaintiff, as a pre-trial detainee; to the extent that the use of the restraint chair as a disciplinary device might have been warranted in these instances, Plaintiff was kept in the restraint chair beyond what was necessary for any acceptable disciplinary or safety purposes and long after the need to do so had abated.

122.

Plaintiff DeCarmo requested an opportunity to fill out a grievance form to complain of the improper treatment he had received while in the Dooly LEC.

123.

Plaintiff DeCarmo was not provided with the necessary form or writing utensil in response to this request.

124.

Plaintiff’s attempts to comply with the Prison Litigation Reform Act (“PLRA”) and file a grievance, formally complaining about the abuse and poor treatment were frustrated by Defendants, leaving him unable and excused from doing so, prior to filing suit.

V. FIRST CLAIM FOR RELIEF

Deprivation of Constitutional Rights Under the Fourteenth Amendment (Excessive Force) of the United States Constitution

125.

Plaintiffs **WILLIAM DELONG, KELVIN HAMPTON, RONALD GLENN, ALEXANDER LESTER, and TERRY LOVEION DECARMO** reallege paragraphs 1 through 124, above, as if same were set out herein verbatim.

126.

At all times pertinent hereto, Defendants, **VAN T. PEAVY, Dooly County Sheriff; RALPH BAILEY, Jail Administrator for Dooly County Law Enforcement Center; DRUM ANDERSON, a supervising Deputy Sheriff, Dooly County; CRAIG PEAVY, Deputy Sheriff, Dooly County; SHANESE GATES, Deputy Sheriff, Dooly County; JEROME ANDERSON, Deputy Sheriff, Dooly County; FRANK JASSO, Deputy Sheriff, Dooly County; and, JOHN DOE, Deputy Sheriff, Dooly County; JOHN DOE, maintenance worker; and, PATTY WATSON, Nurse, Dooly County Jail, all in their individual capacities**, were acting in their individual capacities and all defendants are considered “persons” within the meaning of 42 U.S.C. §1983.

127.

Each of these Defendants, acting in his, her, or its, individual capacities, were at all relevant times hereto acting under color of state law within the meaning of 42 U.S.C. §1983.

128.

This First Claim for Relief is pled against each and every one of these Defendants named herein, in their individual capacities.

129.

Upon information and belief, Plaintiffs’ injuries were caused by the conduct of Defendants including, but not limited to **VAN T. PEAVY, Dooly County Sheriff; RALPH BAILEY, Jail Administrator for Dooly County Law Enforcement Center; DRUM ANDERSON, a supervising Deputy Sheriff, Dooly County; CRAIG PEAVY, Deputy Sheriff, Dooly County; SHANESE GATES, Deputy Sheriff, Dooly County; JEROME ANDERSON, Deputy Sheriff, Dooly County; FRANK JASSO, Deputy Sheriff, Dooly County; and, JOHN DOE, Deputy Sheriff, Dooly County; JOHN DOE, maintenance worker; and, PATTY WATSON, Nurse, Dooly County Jail, all in their individual capacities**, who either used excessive force in disciplining Plaintiffs; or failed to intercede concerning the use of this excessive force; and/or failed to properly train, supervise, discipline, provide for appropriate policies, and/or ensure that the Dooly County LEC operated according to proper jail and detention procedures.

130.

At all times alleged herein, as indicated above, Defendants’ conduct caused Plaintiffs to

be subjected to a deprivation of their due process rights guaranteed under the Fourteenth Amendment of the Constitution of the United States, including the right:

- (a) To be free from “cruel treatment”;
- (b) To be free from use of “excessive force”; and/or,
- (c) To be protected from being unnecessarily exposed to a known substantial risk of serious harm.

131.

The actions of Defendants were done intentionally or willfully in disregard for the rights secured to Plaintiffs under the United States Constitution and ancillary Federal law, with knowledge of the consequences of their acts and omissions.

132.

Defendants’ disregard for Plaintiffs’ rights guaranteed by the due process clause of the Fourteenth Amendment of the United States Constitution and other Federal statutory law gives rise to the following:

(a) Actual and compensatory damages including physical and emotional pain and suffering in amounts to be determined by the enlightened conscience of twelve (12) jurors, as against all of the above entitled Defendants individually, both jointly and severally as alleged above;

(b) Additional damages for special circumstances in amounts to be determined by a jury, as against all of the above entitled Defendants individually, both jointly and severally as alleged above;

(c) Attorneys’ fees and costs of litigation; and/or

(d) For such further relief as the Court shall deem just and proper.

VI. SECOND CLAIM FOR RELIEF

Deprivation of Constitutional Rights Under the Fourteenth Amendment (Failure to Keep Safe and/or Exposure to Harm) of the United States Constitution

133.

Plaintiffs **WILLIAM DELONG, KELVIN HAMPTON, RONALD GLENN, ALEXANDER**

LESTER, and TERRY LOVEION DECARMO reallege paragraphs 1 through 132, above, as if same were set out herein verbatim.

134.

At all times pertinent hereto, Defendants, **VAN T. PEAVY, Dooly County Sheriff; RALPH BAILEY, Jail Administrator for Dooly County Law Enforcement Center; DRUM ANDERSON, a supervising Deputy Sheriff, Dooly County; CRAIG PEAVY, Deputy Sheriff, Dooly County; SHANESE GATES, Deputy Sheriff, Dooly County; JEROME ANDERSON, Deputy Sheriff, Dooly County; FRANK JASSO, Deputy Sheriff, Dooly County; and, JOHN DOE, Deputy Sheriff, Dooly County; JOHN DOE, maintenance worker; and, PATTY WATSON, Nurse, Dooly County Jail, all in their individual capacities**, were acting in their individual capacities and all defendants are considered “persons” within the meaning of 42 U.S.C. §1983.

135.

Each of these Defendants, acting in his, her, or its, individual capacities, were at all relevant times hereto acting under color of state law within the meaning of 42 U.S.C. §1983.

136.

This Second Claim for Relief is pled against each and every one of these Defendants named herein, in their individual capacities.

137.

Upon information and belief, Plaintiffs’ injuries were caused by the conduct of Defendants including, but not limited to **VAN T. PEAVY, Dooly County Sheriff; RALPH BAILEY, Jail Administrator for Dooly County Law Enforcement Center; DRUM ANDERSON, a supervising Deputy Sheriff, Dooly County; CRAIG PEAVY, Deputy Sheriff, Dooly County; SHANESE GATES, Deputy Sheriff, Dooly County; JEROME ANDERSON, Deputy Sheriff, Dooly County; FRANK JASSO, Deputy Sheriff, Dooly County; and, JOHN DOE, Deputy Sheriff, Dooly County; JOHN DOE, maintenance worker; and, PATTY WATSON, Nurse, Dooly County Jail, all in their individual capacities**, who either injured Plaintiffs; failed to keep them from harm, unnecessarily exposing them to an unnecessary risk or harm; failed to provide Plaintiffs with appropriate and timely medical; and/or failed to properly train, supervise, discipline, provide for appropriate policies, and/or ensure that the Dooly County LEC operated according

to proper jail and detention procedures.

138.

At all times alleged herein, as indicated above, Defendants' conduct caused Plaintiffs to be subjected to a deprivation of their due process rights guaranteed under the Fourteenth Amendment of the Constitution of the United States, including the right:

- (a) To be free from cruel treatment;
- (b) To be kept safe from harm;
- (c) To be provided with appropriate and timely medical care and treatment; and/or,
- (d) To be protected from being unnecessarily exposed to a known substantial risk of serious harm.

139.

The actions of Defendants were done intentionally, willfully, and/or in disregard for the rights secured to Plaintiffs under the United States Constitution and ancillary Federal law, with knowledge of the consequences of their acts and omissions.

140.

Defendants' misconduct disregarded Plaintiff's rights guaranteed by the Fourteenth Amendment of the United States Constitution and further violated Federal statutory law giving rise to the following:

- (a) Actual and compensatory damages including physical and emotional pain and suffering in amounts to be determined by the enlightened conscience of twelve (12) jurors, as against all of the above entitled Defendants individually, both jointly and severally as alleged above;
- (b) Additional damages for special circumstances in amounts to be determined by a jury, as against all of the above entitled Defendants individually, both jointly and severally as alleged above;
- (c) Attorneys' fees and costs of litigation; and/or
- (d) For such further relief as the Court shall deem just and proper.

VII. THIRD CLAIM FOR RELIEF

Deprivation of Constitutional and Federal Rights

Pursuant to the Americans with Disabilities Act (ADA)

141.

Plaintiff **ALEXANDER LESTER** realleges paragraphs 1 through 140, above, as if same were set out herein verbatim.

142.

This Third Claim for Relief is pled against Defendant, **DOOLY COUNTY**, as a public entity, within the meaning of the “Americans with Disabilities Act” (ADA), 42 U.S.C.A. § 12131 et seq., acting at all relevant times through the below entitled Defendants, acting in their official capacities.

143.

As a public entity, Defendant, **DOOLY COUNTY**, acting through its department or facility, Dooly County LEC, is barred from denying inmates of the Dooly County LEC, the benefits of its services, programs, or subjecting its inmates to discrimination as defined by the “Americans with Disabilities Act” (ADA), 42 U.S.C.A. § 12131 et seq., and interpretative regulations and case law.

144.

Defendant **DOOLY COUNTY** acts or fails to act through its policy-making officials, including, but not limited to Defendant **WAYNE J. WEST**, Dooly County Commission Chairman, and Defendant **VAN T. PEAVY**, Dooly County Sheriff, and the staff, deputies, jailors, and jail personnel, employed at the Dooly County LEC, including the above-named individual defendants. The acts and edicts of these policy-making officials also represent the training, policies, practices and customs of **DOOLY COUNTY**.

145.

Plaintiff **ALEXANDER LESTER**, at all relevant times herein, was “a qualified individual with a disability” within the meaning of “Americans with Disabilities Act” (ADA), 42 U.S.C.A. § 12131 et seq., to the extent that he suffered from mental illness requiring that he receive both treatment and medication in order to maintain his mental stability.

146.

Upon information and belief, Defendants’ conduct failed or denied Plaintiff, an “otherwise qualified individual with a disability,” benefits of the services or programs of the “public entity”

facilities of Dooly County LEC, and/or subjected him to discrimination, in that Defendants:

(a) Failed to make reasonable modifications in policies, practices, or procedures, when such modifications were necessary to afford Plaintiff, as a qualified disabled individual, access to goods, services, facilities, privileges, advantages, or accommodations;

(b) Failed to take such steps as were necessary to ensure that Plaintiff, as a qualified disabled individual, was not excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services;

(d) Failed to make goods, services, facilities, privileges, advantages, or accommodations available to Plaintiff, as a qualified disabled individual, through alternative methods; and/or;

(e) Subjected Plaintiff to discrimination by using excessive force on Plaintiff and intentionally subjecting Plaintiff to unnecessarily cruel treatment which could have been avoided, had he received proper medical care and treatment.

147.

The actions of the Defendant **DOOLY COUNTY'S** policy making officials and employees were done intentionally, willfully, and/or with deliberate indifference to, or reckless disregard for the rights secured to Plaintiff **ALEXANDER LESTER** under the United States Constitution, the Americans with Disabilities Act (ADA), and ancillary Federal law, with knowledge of the consequences of their acts and omissions.

148.

Defendant **DOOLY COUNTY'S** misconduct, acting through the above described Defendants, disregarded Plaintiff's rights guaranteed by the Americans with Disabilities Act (ADA), 42 U.S.C.A. § 12131 et seq., giving rise to the following:

(a) Actual and compensatory damages including physical and emotional pain and suffering in amounts to be determined by the enlightened conscience of twelve (12) jurors, as against all of the above entitled Defendants individually, both jointly and severally as alleged above;

(b) Additional damages for special circumstances in amounts to be determined by a jury;

(c) Attorneys' fees and costs of litigation; and/or

(d) For such further relief as the Court shall deem just and proper..

VIII. FOURTH CLAIM FOR RELIEF
FALSE IMPRISONMENT

149.

Plaintiffs **WILLIAM DELONG, KELVIN HAMPTON, RONALD GLENN, ALEXANDER LESTER, and TERRY LOVEION DECARMO** reallege paragraphs 1 through 148, above, as if same were set out herein verbatim.

150.

At all times pertinent hereto, Defendants, **VAN T. PEAVY, Dooly County Sheriff; RALPH BAILEY, Jail Administrator for Dooly County Law Enforcement Center; DRUM ANDERSON, a supervising Deputy Sheriff, Dooly County; CRAIG PEAVY, Deputy Sheriff, Dooly County; SHANESE GATES, Deputy Sheriff, Dooly County; JEROME ANDERSON, Deputy Sheriff, Dooly County; FRANK JASSO, Deputy Sheriff, Dooly County; and, JOHN DOE, Deputy Sheriff, Dooly County; JOHN DOE, maintenance worker; and, PATTY WATSON, Nurse, Dooly County Jail, all in their individual capacities**, acting in their individual capacities, either did falsely place Plaintiffs in the restraint chair, against their will, and/or encouraged others to do so, and/or encouraged or condoned a policy, custom, or practice, of using the restraint chair to discipline inmates or pre-trial detainees, in violation of Georgia law.

151.

The actions of the defendants were done intentionally, willfully, and/or with deliberate indifference to or reckless disregard for the rights secured to Plaintiffs under the laws of the State of Georgia, with knowledge of the consequences of their acts and omissions.

152.

Defendants' misconduct disregarded Plaintiffs' rights guaranteed by the laws of the State of Georgia giving rise to the following:

(a) Actual and compensatory damages including physical and emotional pain and suffering in amounts to be determined by the enlightened conscience of twelve (12) jurors, as against all of the above entitled Defendants individually, both jointly and severally as alleged above;

(b) Additional damages for special circumstances in amounts to be determined by a jury,

as against all of the above entitled Defendants individually, both jointly and severally as alleged above;

(c) Attorneys' fees and costs of litigation; and/or

(d) For such further relief as the Court shall deem just and proper.

IX. FIFTH CLAIM FOR RELIEF

BATTERY

153.

Plaintiffs **WILLIAM DELONG, KELVIN HAMPTON, RONALD GLENN, ALEXANDER LESTER, and TERRY LOVEION DECARMO** reallege paragraphs 1 through 152, above, as if same were set out herein verbatim.

154.

At all times pertinent hereto, Defendants, **VAN T. PEAVY, Dooly County Sheriff; RALPH BAILEY, Jail Administrator for Dooly County Law Enforcement Center; DRUM ANDERSON, a supervising Deputy Sheriff, Dooly County; CRAIG PEAVY, Deputy Sheriff, Dooly County; SHANESE GATES, Deputy Sheriff, Dooly County; JEROME ANDERSON, Deputy Sheriff, Dooly County; FRANK JASSO, Deputy Sheriff, Dooly County; and, JOHN DOE, Deputy Sheriff, Dooly County; JOHN DOE, maintenance worker; and, PATTY WATSON, Nurse, Dooly County Jail, all in their individual capacities**, acting in their individual capacities, either intentionally had unlawful, unjustified and/or unauthorized physical contact with Plaintiffs against their will, and/or encouraged others to do so, and/or encouraged or condoned a policy, custom, or practice, of using unlawful force to discipline inmates or pre-trial detainees, in violation of Georgia law.

155.

The actions of the defendants were done intentionally, willfully, and/or with deliberate indifference to or reckless disregard for the rights secured to Plaintiffs under the laws of the State of Georgia, with knowledge of the consequences of their acts and omissions.

156.

Defendants' misconduct disregarded Plaintiffs' rights guaranteed by the laws of the State of Georgia giving rise to the following:

(a) Actual and compensatory damages including physical and emotional pain and suffering in amounts to be determined by the enlightened conscience of twelve (12) jurors, as against all of the above entitled Defendants individually, both jointly and severally as alleged above;

(b) Additional damages for special circumstances in amounts to be determined by a jury, as against all of the above entitled Defendants individually, both jointly and severally as alleged above;

(c) Attorneys' fees and costs of litigation; and/or

(d) For such further relief as the Court shall deem just and proper.

X. SIXTH CLAIM FOR RELIEF

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

157.

Plaintiffs **WILLIAM DELONG, KELVIN HAMPTON, RONALD GLENN, ALEXANDER LESTER, and TERRY LOVEION DECARMO** reallege paragraphs 1 through 156, above, as if same were set out herein verbatim.

158.

At all times pertinent hereto, Defendants, **VAN T. PEAVY, Dooly County Sheriff; RALPH BAILEY, Jail Administrator for Dooly County Law Enforcement Center; DRUM ANDERSON, a supervising Deputy Sheriff, Dooly County; CRAIG PEAVY, Deputy Sheriff, Dooly County; SHANESE GATES, Deputy Sheriff, Dooly County; JEROME ANDERSON, Deputy Sheriff, Dooly County; FRANK JASSO, Deputy Sheriff, Dooly County; and, JOHN DOE, Deputy Sheriff, Dooly County; JOHN DOE, maintenance worker; and, PATTY WATSON, Nurse, Dooly County Jail, all in their individual capacities**, acting in their individual capacities, did intentionally or recklessly engage in conduct which caused injury to the peace happiness or feelings of the person of Plaintiffs, and/or encouraged others to do so, and/or encouraged or condoned a policy, custom, or practice, of using the restraint chair to discipline inmates or pre-trial detainees, in violation of Georgia law.

159.

The actions of the defendants were done intentionally, willfully, and/or with deliberate indifference to or reckless disregard for the rights secured to Plaintiffs under the laws of the State of Georgia, with knowledge of the consequences of their acts and omissions.

160.

Defendants' misconduct disregarded Plaintiffs' rights guaranteed by the laws of the State of Georgia giving rise to the following:

(a) Actual and compensatory damages including physical and emotional pain and suffering in amounts to be determined by the enlightened conscience of twelve (12) jurors, as against all of the above entitled Defendants individually, both jointly and severally as alleged above;

(b) Additional damages for special circumstances in amounts to be determined by a jury, as against all of the above entitled Defendants individually, both jointly and severally as alleged above;

(c) Attorneys' fees and costs of litigation; and/or

(d) For such further relief as the Court shall deem just and proper.

XI. DAMAGES

WHEREFORE, Plaintiffs pray:

- A. That process issue and Defendants be served as provided by law;
- B. That Plaintiffs have a total judgment in an amount determined by the enlightened conscience of the jury against Defendants;
- C. That Plaintiffs have a trial by jury on all issues so triable;
- D. That all Attorneys' fees and costs of litigation be taxed against Defendants;
- E. That punitive damages be awarded to Plaintiffs, as against all Defendants so individually liable;
- F. That Plaintiffs have such further relief as the Court deems just and proper.

RESPECTFULLY SUBMITTED this _____ day of November, 2004.

By: _____
A. James Rockefeller, Esq.
Attorney at Law
State Bar Number: 611214