IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:22-CV-03069-GPG
(To be supplied by the court)

AMENDED COMPLAINT!

MANUEL GARCIA #17434-050, Plaintiff

v.

Jury Trial requested:
(please check one)
✔ Yes ___ No

DR. CHRISTOPHER T. HARRIGAN-(MD),
MS. C. LINDGREN-(HSA)

MR. JOHN McGAUGH-(MAT),
MS. S. NATION

MR. . BAYER-(PA),
MS. K. LINDSEY

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO
FEB 27 2023
JEFFREY P. COLWELL
CLERK

, Defendant(s).

(List each named defendant on a separate line. If you cannot fit the names of all defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names of the defendants listed in the above caption must be identical to those contained in Section B. Do not include addresses here.)

COMPLAINT

NOTICE

Federal Rule of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should not contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include only: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Plaintiff need not send exhibits, affidavits, grievances, witness statements, or any other materials to the Clerk's Office with this complaint.

A. PLAINTIFF INFORMATION

You must notify the court of any changes to your address where case-related papers may be served by filing a notice of change of address. Failure to keep a current address on file with the court may result in dismissal of your case.

MANUEL GARCIA #17434-050, U.S.P. FLORENCE HIGH - P.O. BOX 7000-
(Name, prisoner identification number, and complete mailing address) FLORENCE, COLORADO 81226

_____
(Other names by which you have been known)

Indicate whether you are a prisoner or other confined person as follows: (check one)

___ Pretrial detainee
___ Civilly committed detainee
___ Immigration detainee
___ Convicted and sentenced state prisoner
✓ Convicted and sentenced federal prisoner
___ Other: (*Please explain*) _____

B. DEFENDANT(S) INFORMATION

Please list the following information for each defendant listed in the caption of the complaint. If more space is needed, use extra paper to provide the information requested. The additional pages regarding defendants should be labeled "B. DEFENDANT(S) INFORMATION."

Defendant 1: CHRISTOPHER T. HARRIGAN - MD
(Name, job title, and complete mailing address)

_____

At the time the claim(s) in this complaint arose, was this defendant acting under color of state or federal law? ✓ Yes ___ No (*check one*). Briefly explain:

DR. CHRISTOPHER T. HARRIGAN IS CONTRACTED UNDER BOTH STATE & FEDERAL LAWS AND VIOLATED THE PLAINTIFF'S 8TH AMENDMENT RIGHTS UNDER A BIVENS ACTION & COMMITTED MEDICAL MALPRACTICE AND NEGLIGENCE UNDER A 1983-ACTION

Defendant 1 is being sued in his/her ✓ individual and/or ___ official capacity.

Defendant 2: MS. C. LINDGREN - HEALTH SERVICES ADMINISTRATOR \ OFFICER
(Name, job title, and complete mailing address)

At the time the claim(s) in this complaint arose, was this defendant acting under color of state or federal law? ✓ Yes ___ No (*check one*). Briefly explain:

DEFENDANT VIOLATED THE PLAINTIFF'S 8TH AMENDMENT RIGHTS BY FAILING TO PROVIDE TREATMENT; DENIED, DELAYED & INTERFERRED WITH ANY PRESCRIBED TREATMENT

Defendant 2 is being sued in his/her ✓ individual and/or ___ official capacity.

Defendant 3: JOHN McGAUGH - MAT; MS. S. NATION; MR. BAYER - PA; MS. LINDSEY
(Name, job title, and complete mailing address)

At the time the claim(s) in this complaint arose, was this defendant acting under color of state or federal law? ✓ Yes ___ No (*check one*). Briefly explain:

DEFENDANTS VIOLATED THE PLAINTIFF'S 8TH AMENDMENT RIGHTS BY FAILING TO PROVIDE TREATMENT; DENIED, DELAYED AND INTERFERRED WITH ANY PRESCRIBED TREATMENT

Defendant 3 is being sued in his/her ✓ individual and/or ___ official capacity.

C. JURISDICTION

Indicate the federal legal basis for your claim(s): (check all that apply)

✓ 42 U.S.C. § 1983 (state, county, and municipal defendants) FOR CHRISTOPHER T. HARRIGAN!

✓ *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971) (federal defendants) FOR ALL OTHER DEFENDANTS LISTED!

___ Other: (*please identify*) _____

C. JURISDICTION

Title 42 U.S.C. §1983 and 28 U.S.C. §1367(a)

Mr. Garcia brings an §1983 action against state actors status and also gives district court original jurisdiction under 28 U.S.C. §1331 and 28 U.S.C. §1367(c)(3). The district Court shall have supplemental jurisdiction over all other claims that are related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution.

Mr. Garcia would like to invoke supplemental jurisdiction over other claims under state law medical malpractice/negligence for cause of action against private physician acting under color of state law when he exercises some right or privilege created by the state or by a person for whom the state is responsible and is a person who may fairly be said to be a state actor.

It is also clear that hospitals and physicians that provide care outside of the prison facility may be state actors when they work pursuant to contract. They have voluntarily assumed the state function. Federal prisoners in Government institutions can only sue officers and not private physicians. Courts have permitted suit under §1983 against private physicians exercising "state action" but the court denies such a remedy to the prisoner's federal counterpart. See Bivens.

Therefore Mr. Garcia would like to give the court supplemental jurisdiction to hear a state claim arising from the same basis of facts as his federal claim under 28 U.S.C.§1367(c)(3).

D. STATEMENT OF CLAIM(S)

State clearly and concisely every claim that you are asserting in this action. For each claim, specify the right that allegedly has been violated and state all facts that support your claim, including the date(s) on which the incident(s) occurred, the name(s) of the specific person(s) involved in each claim, and the specific facts that show how each person was involved in each claim. You do not need to cite specific legal cases to support your claim(s). If additional space is needed to describe any claim or to assert additional claims, use extra paper to continue that claim or to assert the additional claim(s). Please indicate that additional paper is attached and label the additional pages regarding the statement of claims as "D. STATEMENT OF CLAIMS."

CLAIM ONE: FOR ALL CLAIMS FOR BOTH 1983-ACTION & BIVENS ACTION, PLEASE MAKE FULL & COMPLETE REFERENCE TO THE ATTACHED 16-PAGES-D. STATEMENT OF CLAIMS: 1-THROUGH-93

Supporting facts:

FOR ALL CLAIMS SUPPORTING FACTS FOR BOTH 1983-ACTION AND BIVENS ACTION, PLEASE MAKE FULL & COMPLETE REFERENCE TO THE ATTACHED 16-PAGES-D. STATEMENT OF CLAIMS: ONE-THROUGH-NINETY-THREE AND STATEMENT OF CLAIMS 1-THROUGH-84

13 pg. [redacted]

NOTE:

D. STAEMENT OF CLAIMS 42 U.S.C. §1983

Dr. Christopher T. Harrigan was in violation for Negligence and Malpractice for Failure to Recognize and Respond to Past Operative Complications.

Supporting Facts:

1) On 1/19/17 Mountain Peaks Urologist Christopher T. Harrigan confirmed Mr. Garcia's injury as a right swollen testicle.

2) Physical examination report on 1/19/17 (Exh. #R Scrotum) said that there is a mass on the right which is non-tender, is slightly enlarged and trans-illuminates. The left testicle is normal to palpation.

3) Dr. Harrigan new plan of treatment: ordered schedule surgury R. Hydro-celectomy on 1/19/17.

4) Mr. Garcia after the right hydrocelectomy surgery started to have com-plications to the left testicle.

5) On 7/9/19 was treated for a second surgery this time to the left test-icles, Hydrocelectomy.

6) Mr. Garcia was allegedly transfer from the operation room after the com-pletion of the procedures and was received in the recovery room but there's norecord of this event nor time on this date.

7) There was no significant entry in the post-operative record of a nurse making notes of Mr. Garcia symptoms or recovery or complaints.

8) There was no general surgical resident visiting Mr. Garcia on a regular basis during the post-operative period and there was no conducted examin-ation and test of his swollen testicle, discomfort and pain, as well the inability to urinate without pain, nor progress report of the completion procedure.

9) Dr. harrigan who was primarily responsible for Mr. Garcia's care, fail to make observations to Mr. Garcia's completion of the procedures. Fail to note the details of Mr. Garcia's post-operative care.

10) Dr. Harrigan never saw the patient at any time after the surgery. In fact Dr. Harrigan was the doctor in charge for this operation, the operative notes were dictated by Dr. Harrigan and was not approved by another doctor present during this surgery.

11) Mr. Garcia was sent back to prison without post-operative procedure, without observation of his completion of procedure.

12) Mr. garcia upon arriving from the care of Mr. Harrigan was sent straight to his cell where he started experiencing surgery complications. (Exh. #A)

13) Dr. Harrigan was contacted by RN Barley N. Concerning Mr. Garcia's post-operative situation.

14) Dr. Harrigan was not asked to return to see the patience nor did he volenteered to do so; on the basis of his conversation with RN Bailey appraised inmate current condition. As high-blood pressure. He concluded that his presence was not required.

15) Mr. garcia condition did not improve, his condition and his complaints were due to surgery complications, swelling of the operative area.

16) Mr. Garcia shows signs of experiencing great physical discomfort and pain during the period initially after the surgery. Immediately after the surgery health care providers reported that Garcia was in extremely pain on his knees thrashing around and constantly complaining of swelling testicles, inability to urinate and abnormal pain.

17) Dr. Harrigan refered to these symptoms as "suspect" inmate not taking his BP meds and possibly getting fluid overload from the surgery could be the cause of the symptoms.

18) Dr. Harrigan did not feel any need to reoperate and he did not see any need for an immediate urologist consultation.

19) Dr. Harrigan who had been primarily responsible for Mr. Garcia, did not see him after 3/19/20, to plan schedule another surgery procedure hydrocelectomy. After the fact Mr. Garcia had ended up in the emergency room on 1/14/20, were on one sonogram/ Doppler was done and found 6x5.3x4 cm left hydrocale.

20) Dr. Harrigan had prepared for the operation merely by reviewing the sonogram on 1/14/20 and a physical examination 3/19/20. In fact on this physical examination was his progress note since the last surgery on 7/9/19 approximately 8 months after the surgery. Where he wrote that Mr. Garcia's swelling testicle, inflammation testicular dysfunction do to the surgery complications. Dr. Harrigan did not acted accordingly to Mr. Garcia medical need. Also did not was concern about Mr. Garcia'a symptoms that had been reported since 7/9/19.

21) Mr. Garcia preferred language is spanish, his english is poor. He was coerced to sign a informed consent without a translator. Not properly inform Mr. Garcia of the risk and alternatives in his first language spanish.

22) Mr. Garcia consent as indicated by his signature on the authorization form was not informed and was in fact virtually a nullity. Mr. Garcia indicates that had he been properly informed of the dangers of the operation in his language spanish, he would not have consented to the surgery as it was performed.

23) Dr. Harrigan breached it's duty of providing material information which was essential and necessary to that Mr. Garcia could make an informed judgement about and give an informed consent to this surgery and the other surgeries.

24) Mr. Garcia ended up having another surgery on 10/21/21. Approximately 18 months after his last consultation with Dr. Harrigan.

25) On 10/12/21 Mr. Garcia went through the same failures and events as the above surgeries, with the same post-operative failures and observations that Mr. Garcia ended up with surgery complications in his cell, for three days without any assistance from medical personal, medication, ice packs on lockdown for security reasons.

26) On 10/15/21 Mr. Garcia was sent to the hospital emergancy room where ultrasounds show fournier's gangrene (Exh. #M) and ischemic left testicle (likely infureted, not salvagable per urology) and CT scan show subcutaneous air due to the"aggressive surgery" per Dr. Harrigan (Exh.J)(See ED Course).

27) On 10/26/21 Mr. Garcia had another surgery orchietomy to remove the left testicle and sent inmate back to prison with drain and instructions for FU to remove drain approximately 4-6 weeks later.

Health medical staff concern for Mr. Garcia pain possible infection and "inability to reach urologist". Mr. Garcia was sent to the local emergency room department on 11/24/21. They had advised Mr. Garcia may have infection but that the drain should not be removed except under instruction from urologist. (Exh. Q p.3)

28) On 12/6/21 medical staff provider John McGaugh performed the removal of the drainage without the urologist instructions as the local hospital recommended. Due to the inability to reach Dr. Harrigan to conduct this procedure. (Exh. #Q pgs. 3-4)

CLAIM 1

29- Dr. harrigan was in violation (A) Negligence of surgery and (B) post-operative care by failure to recognize and respond to post-operative com-

-plication and failed to provide adequate medical treatment.

30- To recover in a surgical medical malpractice a plaintiff must prove that the defendant was negligant, that the plaintiff was harmed and that the negligence of the surgeon or physician was a substantial contributing factor in producing the injuries complained of.

31- To establish that a physician was negligent, the plaintiff must prove that the physician failed to exercise that degree of diligence and skill which other physicians in the same general neighborhood and in the same line of practice, ordinarily exercised in similar cases.

32- As Mr. Garcia said in his complaint, upon being treated for a hydrocele on 6/20/17 he started to experience surgery complications. Since this date above and it continue through all the surgeries Dr. Harrigan performed.

33- That all the operations itself were performed negligently. Had the first surgery been performed properly, it is likely that Mr. Garcia would not suffered from a continuous wrongful conduct through the years by Dr. Harrigan and would not suffer from reoccurrence of hydrocele constantly upon recorrective operations and would not have lost his left testicle, disfigurement of scrotum, disfunctional erectile and loss of sensation.

34- Mr. Garcia have been involved since 2017 in a continuously wrongfully conduct that lasted til 12/6/21 in the care of Dr. Harrigan (Mountain Peak Urologist). Mr. Garcia underwent for a minor injury of hydrocele. He was under the impression that it would that it would be an injection to the scrotum.

35- On all operations that Mr. Garcia had to undergo he never once was giving an alternative methods or measures more conservatively before performing open surgery.

36- Dr. Harrigan failed to adequately take into account all the three surgeries to the same area and the danger to the tissue damge he was caus-

-ing, making each surgery more complicated.

37- Dr. Harrigan last surgery 10/26/21 (Exh. Q p.3) reports shows that Mr. Garcia had fournier's gangrene which is death and decay of bodily tissue.

38- Dr. Harrigan failed to conduct more frequent physical examinations during Mr. Garcia medical condition. Here the evidence showed on 7/9/19. He was informed after the performed surgery by RN Bailey N. by phone that Mr. Garcia was having surgery complications, failed to respond adequate or show any concern for Mr. Garcia medical condition. (Exh. #A)

39- Appraised Mr. Garcia condition as High Blood Pressure. Treatment was important at that point because he could have recorrect the surgery complications Mr. Garcia was having.

40- Failure to send back Mr. Garcia to the hospital for evaluation or close monitor knowing Mr. Garcia was having complications and was found his knees having extreme pain complaining about his operation that just was performed on him.

41- On 7/18/19 Health care provider R. Camacho reports that Mr. Garcia was in pain with a swelling scrotum and testicle, inflammation after 9 days of the surgery (Exh. #B) with a visible 6x5. 3x4.4 cm left hydrocele size of a softball. The first surgical result on 6/20/17 indicated that the surgery to the right testicle was a failure, that it caused damage to the left testicle and Mr. Garcia neede d to have treatment to the left testicle on 7/9/19 to recorrect serious damage the first time.

42- On 7/18/19 Health Care providers R. Camacho reports Mr. Garcia extreme pain and swelling, inflammation after 9 days of the surgery performed on 7/9/19 (Exh.#B). The evidence shows here that the surgical results to the left testicle never once had a good reduction in size.

43- On 1/13/20 Mr. Garcia ends up in the emergency room with a visible 6x5. 3x4.4 cm left hydrocele size of a softball.

44- Dr. Harrigan had knowledge and was informed aware of Mr. Garcia's medical conditions since 7/9/19 (Exh.#A) that the surgery was a failure and that Mr. Garcia was not doing well after the surgery performed on him.

45- Dr. Harrigan for the first time since the surgeyr he performed on Mr. Garcia and after Mr. Garcia ends up in the hospital obtains a consultation and physical examination on Mr. Garcia.

45- Decided to plan and treat Mr. Garcia medical condition with another surgery, ruling out other methods more conservatively due to Mr. Garcia medical history of surgery complication. He give another surgery to the same area 18 months after Mr. Garcia ended up in the hospital.

46- Without adequate technological and physical examination more frequent, give only on consultation 4/10/20 (Exh.) where he scheduled and planned to the surgery above.

47- Doctor failed to provide close monitor Mr. Garcia medical condition with the proper and adequately treatment and examination to conduct pre-operative examinations.

48- Dr. Harrigan ignored Mr. Garcia's symptoms and pain, swelling and inflammation since 7/9/19. Failed to monitor Mr. Garcia conditions closely, conduct more frequent, physical examination as well technological examinations.

49 Failed to respond adequately to the surgical results performed on Mr. Garcia, knowing that the surgeries were not successful and did not reduce the size of the patients left hydrocele nor the pain, swelling and inflammation did not stop.

50- Failed to do his duty of care when he ignored to treat Mr. Garcia's condition with adequate treatment and proper time and medical care required by his duty.

51- Dr. Harrigan breached his duty to Mr. Garcia medical treatment when he did not give the proper treatment or other more conservatively methods or treatment other than just surgeries to the same area.

52- As a result of only to plan to perform surgeries to the injury and no other conservatively alternatives, Mr. Garcia sufferred through the years with pain, swelling, inflammation and testicle size of a softball since 7/9/19 til 10/26/21 which was a continuously wrongful conduct by Dr. Harrigan.

53- On 10/12/21 Mr. Garcia after 13 months from the last physical examination had another surgery to the left testicle. Where being back from the hospital was not place on the post-operation recovery room nor observation area after surgery for the third time having surgery. Mr. Garcia was deprive of adequate treatment before sending him back to prison. There's no record that Mr. Garcia was admitted to this treatment other than Harrigan alleging this treatment. There's no evidence of this event really occurring, there's no notes, signatures by nurses conducting observations rounds of Mr. Garcia's post-operative medical condition. Mr. Garcia was sent back to prison after the surgery was performed without the above treatments.

54- As a result after arriving to prison in his cell Mr. Garcia started to experience surgery complications symptoms of extreme pain, bruises all over his abdomen, thighs, scrotum and inflammation were visible was obtain by heath care providers, Ms. Lidsey, PA John McGaugh, Officer Hartworth, Officer Steiner on 10/12/21, 10/13/21, 10/14/21, 10/15/21. Mr. Garcia had to be rushed to the hospital emergancy room (Exh. #L)

55- Mr. Garcia found out that he had suffered from infracted testicles due to the "aggressive surgery" performed by Dr. Harrigan (Exh. #L) that he need another surgery due to the "aggressive surgery" Dr. Harrigan performed on Mr. Garcia.

56- Dr. Harrigan was going to perform the surgery, he told Mr. Garcia he had a 10% small chance he would have had to be exposed to. (Exh.#).

57- On 10/26/21 Dr. Harrigan removed the non-viable testicle and sent Mr. Garcia back to prison with drain and instructions for FU to remove drain approximately 4-6 weeks later (Exh. #Q pgs. 3,4). Six weeks went by and prison medical staff were concerned for Mr. Garcia's pain and infection, they could not reach urologist Dr. Harrigan to remove the drain. Mr. Garcia was sent back to the local hospital emergency room department. On 11/24/21 prison medical staff were advised that Mr. Garcia may have an infection but that the drain should not be removed except under the instructions of the urologist. This instruction or procedure was not met by urologist due to the inability to be reached.

58- On 12/06/21 two weeks went by for the deadline to remove the drain. Health care provider McGaugh, John performed this procedure of taking out the drain tubes without the instructions set by urologist and the hospital due to the fact that they had been unable to contact urologist for guidance on the drain. (Exh. #Q p.4)

59- Dr. Harrigan failed to meet the stardard of care, skill to require of his duty and breach his duty to perform his own instructions fall short of standard care.

60- The mere fact that a reoccurrance of hydrocele does not remove it from the realm of reasonably foreseeable harm. The surgical results of the two surgeries to the left testicle never once had a good reduction size ,

in fact they were successful that caused more damage and danger than correctiveness, as well as pain and sufferring through the years in prison and affected Mr. Garcia daily activities that he loved and enjoyed doing while in prison: playing softball, working out, physical activities, even sleeping was painful.

61- All this inadvert, mistakes and delay caused Mr. Garcia to end up losing his left testicle and suffered through the years of continuously wrongful conduct on behalf of Dr. Harrigan for 4 years of extreme pain, swelling, inflammation and a testicle the size of a softball without the adequate treatment.

62- As a result Mr. Garcia also suffered disfigurement to the scrotum, erectile dysfunction and sensation as well the ability to produce kids and the ability to perform sexually and pleasure his partner or him for the rest of his life.

63- There are some medical dangers which are so universally and fundamentally recognized i.e. that an interruption of the blood supply will cause nerve damage, that failure to guard against such deleterious consequences amount ot a foreseeable breach of physician's duty of care. Mr. Garcia suffered from fournier's gangrene which cause Mr. Garcia tissue damage and who knows what more.

64- For the reasons above Dr. Harrigan was in negligence of surgery and failed to provide adequate medical treatment. Failed to exercise good judgment required in each individual case by the standard of due care involved.

Claim #2

65 Dr. Harrigan was in violation of (b) postoperative care by failure to recognize and respond to post operative complications and failed to provide adequate medical treatment and that their care fell below professional

standards.

66- To establish that a physicain was in violation of postoperative care by failure to recognize and respond to post operative complications and failed to provide adequate medical treatment and that the care fell below professional standards of care ordinarily exercised in similar cases in Colorado.

67- Had the post operative care of Mr. Garcia had complied with the standard of care, it is more probable than not that Mr. Garcia would not suffer from permanant lost of testicular, dysfigurement to scrotum and testicles, and inability to erectile, sensation and to produce no more kids.

68- The symptoms which Mr. Garcia exhibited immediately after the surgery operations indicated an adnormal urological deficit, which created an immediate corrective action. In order to have had a fait cjance of success corrective action should had been initiated within the first 48 to 72 hours after surgery.

69- Dr. Harrigan had been alerted (Exh. #) to the problem by health care provider Bouley N. failed to adequately monitor Mr. Garcia condition and he offered virtually no personal diagnostic or assistance in correcting his post operative condition other than offering "suspected" comments. Bp

70- Dr. Harrigan had ultimate responsibility for Mr. Garcia and for him to entrust Mr. Garcia's care entire health care provider on 7/9/19 after the surgery crucial stage of a very alarming post-surgical condition was a breach of the standard of care.

71- In light of Mr. Garcia previous hydrocelectomy and his condition of swollen scrotum, testicle, inflammation, extrme pain. It would have been professionally advisable to have performed ultrasound, CT scan, physical examination, blood and urine test, shining light through the scrotum (transillumination) or other alternatives before and after all three operations.

72- A preoperative examination list above could have been compared with a post-operative examination to determine what was causing Mr. Garcia's post-operative urological problems. The absense of all these examinations through the years more frequently breach of standard of care.

73- The failure to obtain all those physical and technological examination adequately of the swollen scrotum, testicle, inflammation pain with Mr. Garcia's history was inexcusable.

74- Dr. Harrigan failed to recognize the surgical complications presented by Mr. Garcia's event on 7/9/19 and history. Failure to insure that Mr. Garcia swollen scrotum, testicle inflammation and pain was gone and to correct the surgery complication on 6/26/17, 7/9/19, 10/12/21 was a breach of the standard of care.

75- If Dr. Harrigan had undertaken the proper diagnostic procedures in timely fashion, corrective surgical procedures could have been performed which would have sucessfully eliminated the likely cause to Mr. Garcia's symptoms: the excessive swollen scrotum, testicle, inflammation, extreme pain and a testicle size of a softball during the critical 72 hour period following the surgery.

76- Dr. Harrigan failed to attempt diagnostic or surgical procedures which whick would revealed a problem and he receive the adequate consultation from Dr. Harrigan.

77- The failure to obtain a urologist consultation after ending up in the emergency room, after surgery complication 7/9/19 (Exh. #). Mr. Garcia on 1/14/20 almost 6 months after the surgical operation received a consultation, was clear breach of the standard of care.

78- When Mr. Garcia began to exhibit abnormal urological symptoms within the first 24 hours following his surgery, the failure to promptly act on the part of Dr. Harrigan constituted a breach of the standard of cure which

proximately cuased Mr. Garcia's injuries. The fact that the doctor did not foresee the specific complications which Mr. Garcia exhibited or the fact that Mr. Garcia exhibited bizarre or unusual symptoms, cannot avail Dr. Harrigan. Because Mr. Garcia injuries were clearly within the scope of the risk created by their failure to act.

79- Dr. Harrigan failed to exercise the requisite standard of medical care and his negligence was significant contributing factor to or a proximate cause of the harm which Mr. Garcia suffered.

Claim #3

80. Dr. Harrigan was in violation lack of informed consent.

The failure to make a sufficient disclosure has been regarded by most courts as presenting the question whether the physician has fullfilled his duty of informing the patient under the appropiate standard.

81- A doctor which is completely seperate and distinct from his responsiblity to skillfully diagnose and treat the patient's ill. A physician is bound to disclose all known material risks peculiar to the proposed procedure. Materiality is defined as the significance a reasonable person in what the physician knows, in his patient's position would attach to the disclosed risk or risks in deciding whether to submit to the proposed procedure. It is the duty of the physician to give the patient whose situation otherwise permits it all information material to the physician to give material to the decision to undergo the propsed procedure.

82. Dr. Harrigan failed to satisfy the requirements of the "lay" standard.

Dr. Harrigan spoke with Mr. Garcia for 15 minutes about the general risk of this procedure (Exh. #).

83 The evidence indicated that neither health service providers and Dr. Harrigan provided a translator at this stage knowing that Mr. Garcia speaks poor english and his preferred language is spanish (Exh.).

The fact that Mr. Garcia inability to speak understandable english was poor at the stage.

84- Dr. Harrigan took advantage of Mr. Garcia's language barrier to coerce him to signing the consent form knowing Mr. Garcia authorization to all those serious risk involved in the propsed procedure.

85- Dr. Harrigan did not properly inform Mr. Garcia of the risks he was going to be exposed to due to this language barrier. Mr. Garcia deserves to have all the proposed procedures in his first language so he could understand and make decisions to undergo the same surgery three times.

86- However the consent form itself argues powerfully and convincingly for the proposition that Dr. Harrigan advised of the material risks inherent in the hydrocelectomy. It also indicates that Dr. Harrigan and health care providers knew that Mr. Garcia's inability to speak undersatndable english was poor.

87- Mr. Garcia should have received a proper consent form in spanish and a translator to help him in this process. Had Mr. Garcia been properly informed in spanish his language would have known about the dangers of the operation in advance. In fact there was no co-signer to this proposed procedure.

88- Therefore the authorization form was not informed and was in fact virtually a nullity. Defendant breached it's duty of providing material information in spanish which was essential and necessary so that Mr. Garcia could make an informed judgement about and give an informed judgment about and give an informed consent to all four surgeries.

Claim #4

89- Mental or emotional injury violation

Mr. Garcia has suffered from a very serious injury under the

hands and duty of care of Dr. Harrigan. he was crastrated and his left testicle was removed as a result, he has suffered from stress, fear, depression, humiliation and the ability to have pleasure and give pleasure due to lost of sensation and dysfunctional erectile and other psychological impacts.

PLRA requires inmates to show some sort of "physical injury" on order to obtain compensatory damges for mental or emotional anguish.

90- Here the evidence shows that Mr. Garcia was going through a continuously wrongful conduct in the hands of urologist Dr. Harrigan since 6/20/17 when he scheduled a plan for surgery treatment only to Mr. Garcia's medical condition (hydrocele). Mr. Garcia was crastrated due to Mr. Harrigan's malpractice and surgery negligence.

91- As a result Mr. Garcia suffered through the years with stress through the years being not able to enjoy or perform his daily activities normally. He had to walk with swollen testicle size of a softball, pain and inflammation through the years and was stressed out because he could not do the things he loved doing and enjoyed. Instead he had to rest which stressed him out laying in the bed most of the time. He was depress because he worried that he would lose his testicles due to the fact the surgeries performed on him were never successful and never lost size of a softball. He would take a urine and was constantly in pain and reminded him he would never be the same ever again.

92- As a result of him losing his left testicle, it played a mental affect in his mind and he is in alot of humiliation emotionally knowing that he would have one testicle not two and that woman are going to humiliate him, laugh at him and not wanting to have sex with him because of his dysfunctional erectile and lost of sensation.

93- He also is now experiencing high blood pressure that's causing him to go to the hospital 10/24/20 where he suffered from a mild stroke due to DR. Harrigan unsucessful surgeries.

§ 1331 BIVENS STATEMENT CLAIMS

D. STATEMENT OF CLAIMS Bivens

1. On or about January 30th, 2017 patient Manuel Garcia was treated for his first surgery for hydrocelectomy by Dr. Harrigan with medical practice Mountain Peak Uroloist, where it was discovered that patient Mr. Garcia suffered from hydrocele.

2. Upon information and belief, patient, Mr. Garcia goes without any treatment other than a planned surgery on June 20th, 2017.

3. Plaintiff Garcia doesn't speak proficient english and his preferred language is spanish to understand medical procedures and terminology.

4. Plaintiff goes on to sign a consent form document without an interperter to all his appointment to the hospitals examinations and urologist with health care providers when they were fully aware of his lack of English by the Plaintiff.

5. Plaintiff signs their consent form to all these serious medical complicated procedures without knowing the harms and high-risk involved to his personal health, safety and life due patient's lack of english to clearly understand the seriousness of all risk involved.

6. Defendant Dr. Harrigan had full control and power over plaintiff's health and duty to fully explain the procedures in this high risk surgery for Hydrocelectomy.

7. Dr. Harrigan denied Plaintiff any other alternatives, options and other medical methods that were less intrusive and available to him. There were more conservative approaches before exposing Plaintiff to a serious high risk surgery of Hydrocelectomy.

8. Upon information and belief, the Plaintiff goes approximately Twenty-Five (25) months without any post operation follow ups by Dr. Harrigan and other health care providers at USP Florence, Ms. C. Lindgren, H.S.A.

9. On July 9th, 2019, Mr. Garcia underwent his second surgery, this time to his left testicle. Plaintiff was transported back to his facility and sent straight back to his cell without any observation area for out-patients coming back from hospital surgeries.

10. Shortly after placement in his cell, Plaintiff notified officers he was having surgery complications and symptoms of exetreme pain to his abdomen and groin. Defendant N. Bailey RN, found Plaintiff on his knees next to the toilet and then was taken to the infirmary.

11. Defendant called physician Dr. Harrigan about the surgery complications and Dr. Harrigan apprised that Mr. Garcia's condition by phone call as "suspected high blood pressure", then sent the Plaintiff back to his cell.

12. Defendant Dr. Harrigan, through telephone conversation, gave an evaluation of plaintiff's medical conditions that just left his care of a surgery to BOP-medical staff, N. Bailey based on his professional analysis on the unsubstantiated fact that "It must be the Plaintiff high blood pressure."

13. Neither Defendant Dr. Harrigan nor N. Bailey ever considered plaintiff's condition as urgent or serious at all knowing he just had a real major medical surgery on his left testicle and was recently returned from the hospital, which their final decision was to "let the inmate return back to his cell.", without being placed on observation or being sent back to hospital.

14. Upon information and belief Plaintiff made daily request over the next seven (7) days that he was having extreme pain in abdomen and inflammation and a bruised scrotum and swollen testicles.

15. Plaintiff was denied of the adequate treatment including prescribed medication by the Urologist Dr. Harrigan, including "ice packs" to apply in the swelling area.

16. Plaintiff requested for medical attention and assistance, and was ignored and refused by Defendant based on information and belief of Ms. Lindgren, H.S.A.

17. Plaintiff on July 18th, 2019, just Nine (9) days later had complications and complained again of swelling with moderate to severe pains in his left testicle region; clearly identifying his post-surgery complications. Yet, health care providers, Defendant, Ms. C. Lindgren, H.S.A. refused to consider plaintiff's condition as urgent or provide any adequate care. Defendant Ms. S. Nation delayed sending plaintiff to the physician Dr. Harrigan for more frequent consultations or follow up examinations [technical or physical] or an Ultra Sound or CT Scan.

18. Health care provider R.Camacho clearly identified that Plaintiff Mr. Garcia's post surgery complications; yet, refused to provide any adequate care or assistance to Mr. Garcia's serious medical needs.

19. Plaintiff requested visits to the Urologist for further evaluations due to compliants of pain and swelling that were clear signs as well as bruising, inflammation, swollen testicle the size of soft ball.

20. Plaintiff continued requesting for Ms. C. Lindgren to inquire about his inability to do daily activities, sleepless nights, pain and suffering as well as inflammination and swollen testicles.

21. On January 13th, 2020, Plaintiff ended up in the emergency room of hospital due to neglect of post-operation surgery as well denial of treatment, delay of treatment, and adequate supervision by staff. Ms. Lindgren, Ms. S. Nation failed to consider plaintiff's needs as urgent.

22. Defendant Dr. Harrigan approximately on March 19th, 2020 gives a physical examination and schedule another surgery to the left testicle again, ruled-out any other alternatives, methods, or treatment that are more conservative before performing another surgery to the same unsuccessful surgical area.

23. On March 19th 2020, it was crystal clear that Dr. Harrigan knew that the procedure could and would cause a higher risk of danger to plaintiff health, safety and life and yet plaintiff was taken through such process by Defendants Health Care Providers Ms. C. Lindgren, H.S.A. and Ms. Nation without any translator forcing plaintiff to suffer a serious medical injury without plaintiff fully understanding and fully aware about the dangers of the procedures he was going to take by signing the consent form and all the high risks.

24. Dr.Harrigan lied and stated: that plaintiff had surgery for hydrocele on 7/9/19 and did very well until early January where the hydrocele became recurrent.

25. As to claim in paragraph 24, plaintiff since the 7/9/19 second surgery, up until early January, suffered extreme pain in the abdomen , groin and testicles. With inflammation, swollen scrotum the size of a softball that intervened with his daily activites; sleep and urinary problems among other things.

26. As to the claim in prargraph 24 defendant denies other alternatives or methods more conservative and plans another surgery procedure.

27. Dr. Harrigan notes on 3/19/20 that he discussed with plaintiff another surgery but only spend 15 minutes with the plaintiff that does not know English and alledgedly explains the procedure.

28. As to the claim in paragraph 24, Dr. Harrigan denied and delays treatment and Mr. Garcia ends up going to his next surgery until Oct. 12, 2021, approximately 19 months deprive him of adequate treatment, and delay that caused plaintiff to continue suffering and interfere with his

daily activities that cause more injury than help.

29. Mr. Garcia was denied multiple request to assist him with treatment during that time frame in paragraph 28 by also healthcare providers Ms. C. Lindgren, Ms. Nation, Resto Williams and Mr. Bayer, P.A.; all denied him by failing to consider his medical needs as urgent and necessary causing permanent damage.

30. On 10/12/21 Dr. Harrigan, MD, performed another surgery to the same scar area to get dead tissue off the left testicle. This was his third unsuccessful surgery.

31. Dr. Harrigan knows that he had done two surgeries that caused more harm than treatment and this new surgery could cause high risk health issues and even possible death to the patient.

32. Dr. Harrigan ignored the risks involved and once again rule out any other alternatives or more conservatives measures.

33. As to the claim in paragraph 30, Dr. Harrigan discharged plaintiff of the hospital without recommendation to be placed on observation area once again for patient coming out of surgery and denied adequate treatment.

34. Mr. Garcia arrived at the BOP facility after surgery on 10/12/21 and was place straight to his cell without observation period of time and deprive plaintiff adequate treatment as well violated policy and procedure for out-patient by Resto Williams, Ms. C. Lindgren-H.S.A., Ms. S. Nation, John McGaugh-MAT, Mr. Bayer, P.A., Mr. N. Bailey, RN.

35. Plaintiff on 10/13/21 after arriving to his cell started having surgery complications and started complaining to officials Ms. Steiner , Mr. Hartworth, both officials call Medical staff and advised them that plaintiff is having complications. No one came to see him at that point of time, denied him treatment and delay to receive treatment by medical staff, Ms. C. Lindgren-H.S.A., Ms. Nation, John McGaugh-MAT , Mr. Bayer PA. N. Bailey RN and Mr. Resto Williams.

36. On 10/13/21 until 10/15/21 plaintiff continue complaining about his injury to officails John Doe, Mr. Hartworth and Ms. Steiner. Plaintiff showed the bruises and swollen srcotum to officer Hartworth. Mr. Hartworth stated: "It was looks like 'gang-green'".

37. On 10/15/21 approximately at 7:00am or 7:30am Defendant Ms. Lindsey conducting pill call to lockdown and stop at plaintiff cell. Mr. Garcia complained that he was having extreme pain and had alot of bruises and that he needed ice for his swollen scrotum. Ms. Lindsey replied " to go put some ice on it.", and then walked away. Ms. Lindsey denied me medical attention as well, interferred with plaintiff's prescribed treatment.

38. Mr. Garcia ended up on the floor on 10/15/21 at 11:21 am and was sent to the hospital emergency room. His condition was considered urgent for the first time by Dr. McGaugh-MAT. Then was denied medical attention for the next three days as plaintiff complained of complications of the unsuccessful surgery.

39. Ms. Emily Ashelee Sanchez, MD (physician) for St. Thomas More Hospital diagnosed plaintiff's medical condition as post-op edema, post Op complications, infections, and considered it being from gang-green.

40. Paul Erik Numsen, DO (physician) with St. Thomas More Hospital diagnosed plaintiff's condition as ischemic left testicle (like infarcted, not salvageable per urology). Ct scan showed subcutaneous air likely due to the aggressive surgery per Dr. Harrigan.

41. Gabriel Hayden Johnson, DO with St. Thomas More Hospital performed the Ct scan, ultrasound and stated that it demostrated foci of air within the inguinal canal, given the history of recent procedures this might of been related to the procedures.

42. Mr. McGaugh-MAT, Ms. Lindgren-H.S.A., Mr. Bayer PA, Ms.S. Nation, Ms. Lindsey decided on 10/15/21 approximately, after urologist advised of urgent removal of the testicle to place plaintiff for this consultation until eleven days after urologist recommendation.

Defendants failed to provide treatment and delayed treatment causing plaintiff more extreme pain and suffering as well as mental torture by walking with dead testicle, can be considered "cruel and unnuasual punishment.

43. Plaintiff received the proper treatment after he had been injured permanently for the rest of his life by neligence of Health Care Providers Mr. john McGaugh-MAT. He then issued orders for medication and to wear supportive underwear and to apply cold ice to the region several times per day, also urgent FV request to the urologist on 10/18/21. Mr. John McGaugh, Ms. Lingren, Bayer, Ms. Nation, Ms. Lindsey, Mr. N. Bailey RN and Mr. Resto Williams disregarded the past two surgeries and the post-operation treatments; On 7/9/19 and 10 /12/21, that could have saved the left testicle of Mr. Garcia. And pain and suffering along with permanent loss form dysfunctional erectile syndrome, loss of sensation and dysfigurement to scrotum.

44. As to claim in paragraph 43 had defendant's gave the proper treatment, plaintiff would of not had gone through pain and suffering and might not have damaged his testicles and suffer other injuries.

45. On 10/26/21, Plaintiff underwent another surgery, an Orchiectomy and was sent back to prison with drain and instructions for FV to remove drain approxiamately 4 weeks later. Mr. Harrigan (physician) after a few attempts by medical staff, had to be reached in order to have the drain removed, that he was personally instructed to remove himself. Medical staff then raised concern for plaintiff due to pain and possible infection and the inability to reach urologist. Dr. Harrigan failed to provide treatment and delayed removal of the drain.

46. On 11/24/21 plaintiff was rushed to the hospital emergency room where medical staff were informed and advised that plaintiff had an infection but the drain should not be removed except under the instruction of the urologist.

47. On 12/06/21 Mr. John McGaugh-MAT removes the drain without the

permission of the urologist instructions due to not being able to reach Dr. Harrigan. I was denied medical treatment.

48. Defendants Dr. Harrigan (physicain), Mr. Resto Williams, Ms. C. Lindgren-HSA, Mr. John McGaugh-MAT, Mr. N. Bailey, RN, Mr. Bayer PA, Ms. S. Nation and Ms. Lindsey acted with deliberate indifference towards plaintiff's medical needs by failing to provide treatment, denied me treatment and delayed further treatment; also interferred with treatment prescribed based on the above facts!

D- CLAIMS AND SUPPORTING FACTS

CLAIM ONE:

49. Plaintiff was subjected to deliberate indifference by repeated acts of negligence and malpractice and mistakes continue violations of plaintiff serious medical needs in violation of the Eigth Amendment to the Constitution.

50. *Plaintiff incorporates paragraphs 1 through 48 as though they were fully stated herein.

51. Defendant Dr. Harrigan, MD of Mountain Peak Urologist violated plaintiff's Eigth Amendment right by repeated acts of negligence and malpractice and mistakes. Dr. Harrigan repeatedly kept performing the same unsuccessful scheduled plan for plaintiff's Hydrocele surgery complications since 6/20/17 to the left testicle again and eventually castrated plaintiff on 10/26/21 which was the result of the unsuccessful three surgeries caused more harm then good.

CLAIM TWO:

52. Plaintiff was subjected to diliberate indifference by failure to provide treatment by denied medical treatment.

53. *Plaintiff incorporates paragraph 1 through 48 as though they were stated fully herein.

54. Defendant Dr. Harrigan, MD Mountain Peak Urologist violated plaintiff Eigth Amendment right by denying medical treatment on 7/9/19 when

55. Plaintiff underwent surgery Hydrocelectomy and plaintiff had surgery complications and started complaining to medical staff, N. Bailey RN Health Care provider contacted Dr. Harrigan, MD through a phonecall and Dr. Harrigan apprised plaintiff condition as " High blood pressure" and send him back to his cell without any concern for plaintiff health or surgery complications plaintiff goes back to his cell without being place on observations area or medical treatment or care.

56. Defendant Dr. Harrigan, MD Mountian Peak Urologist violated plaintiff's Eigth Amendment right by denying medical treatment on 10/26/21 after the for sugery Orchiectomy where he placed a drain that needed to be pulled out within Four weeks, which the Health Care provider's were unable to reach him and plaintiff ended up going to the emergency room and also the drain had to be taken out without Urologist Dr. Harrigan's consent on 12/6/21, two weeks after deadline and the drain was infected by that time.

CLAIM THREE:

57. Plaintiff was subjected to diliberate indifference by failure to provide treatment by delaying getting Plaintiff medical attention. *Plaintiff incorporates prargraph 1 through 48 as though they were stated fully herein.

58. Defendant Dr. Harrigan, MD of Mountain Peak Urologist violated Plaintiff's Eigth Amendment right by delaying getting plaintiff medical attention by not attending to plaintiff's medical needs when Dr. Harrigan found out that plaintiff was in serious medical need when he left his care after surgery and later found out by N. Bailey, RN, that plaintiff was found on his knees, complaining of pain, then through a phone call, apprised plaintiff condition on 7/9/19.

59. Plaintiff continued asking for medical attention and care and was seen by R. Camacho, Health Provider. He did an examination and diagnosed plaintiff's condition as extreme pain to the groin and abdomen , swollen scrotum, inflammation and a testicle the size of a softball.

60. Plaintiff ended up in the emergency room of hospital on 1/14/20. Defendant, then scheduled another surgery, a third one, to the left testicle again and it took approximately 19-22 months from 10/12/21 to reach the scheduled plan for surgery.

61. Defendant Dr. Harrigan violated plaintiff's Eigth Amendment rights by failure to provide treatment by delaying getting plaintiff medical attention by not attending to plaintiff medical needs right after the Fourth surgery for Orchiectomy on 10/26/21; where he placed a fluid drain and removed only under his instructions within a month.

62. Defendant was unable to be reached for this procedure past that time frame and Two weeks went by without this treatment to the plaintiff resulted in the drain getting infected and plaintiff ended up in hospital emergency room on 11/24/21. They could not take the drain off because it was only ordered to be done by Urologist Dr. Harrigan and under his instructions to do so. Two weeks later Health Care provider John McGaugh -MAT, performed that procedure without the Urologist's consent because he was unavailable and he could not be reached.

CLAIM Four:

63. Plaintiff was subjected to diliberate indifference by failure to provide medical treatment and the treatment he received was inadequate.

64. *Plaintiff incorporates prargraph 1 through 48 as though they were stated fully herein.

65. Defendant Dr. Harrigan, MD of Mountain Peak Urologist violated plaintiff's Eigth Amendment right by failing to provide medical treatment and the treatment he received was inadequate when defendant failed to give plaitiff adequate treatment of other alternatives methods more conversative before exposing plaintiff to surgery.

66 Defendant ruled out other options more safer on 6/20/17, 7/9/19, 10/12/21 surgeries and deprive plaintiff to exercise other methods like injections to draw out the fluid in the scrotum, medication to release the inflammation or other methods more conservative had the plaintiff been not incarcerated he would had the options to better care of a doctor

of his choice to make the best decision for him but since prisoner's do not have that option. They have to allow treatment provided by the doctors selected by the BOP.

CLAIM FIVE:

63. Plaintiff was subjected to deliberate indifference by failing to reasonably respond to plaintiff serious medical needs, health and safety issues by continued violations.

64. * Plaintiff incorporates paragraphs 1 through 48 as though they were stated fully herein.

65. Defendant's Health Care provider's MS. Lindgren-HSA, Ms. Nation, N. Bailey RN violated plaintiff's Eighth Amendment rights by failing to respond reasonably to plaintiff's health and safety by not giving orders to place plaintiff in observation area that underwent major surgery in the hospital as an out-patient, three times (6/20/17, 7/9/19, 10/12/21). Plaintiff fell on two occasions due to surgery complications just minutes after being placed straight into his cell and it caused plaintiff more harm than good. Defendant's failed to oversee plaintiff's health condition as urgent after knowing Plaintiff's surgery complications on 7/9/19 and 10/12/21 and disregarded that substantial risk of serious harm to plaintiff's health, safety and life.

66. Defendant Ms. Nation violated plaintiff's Eighth Amendment right by failing to respond reasonably when plaintiff's condition was known that he had history of hydrocele and suffered from surgery complications by R. Camacho. On 7/18/19 Plaintiff had swollen scrotum, inflammation, extreme pain and testicle size of softball. Ms.. Nation failed to give orders for plaintiff's to have consultations to see his Urologist as urgent and promptly as possible on 7/18/19.

Plaintiff's medical surgery complications increase and Mr.. Garcia ends up in emergency room on 1/13/20 do to this complications above. Ms. Nation failed to respond reasonably and oversee Mr. Garcia's condition as soon as it was known on 7/18/19, that the surgery was unsuccessful and did not recommended medical treatment or order examinations (physical and technical) as well as appointments to the Urologist. Mr. Garcia ended up being injured permanently due to this failure.

67. Defendant N. Bailey, RN violated plaintiff's Eighth Amendment rights by failing to respond reasonably when he was aware on 7/9/19 and had knowledge that plaintiff just came back from hospital , underwent major surgery and was found on his knees in extreme pain just shortly in his cell complaining. Defendant failed to consider plaintiff's condition as urgent so plaintiff could be sent back to Urologist, but instead called Dr. Harrigan and they both apprised plaintiff's condition as "high blood pressure" and sent him back to his cell.

On 1/13/19 they found out that plaintiff's surgery was unsuccessful and suffered harm from surgery with extreme pain to the groin and abdomen, swollen scrotum, inflammation and a testicle the size of a softball that caused a lot of problems in plaintiff's daily activities as well as urination, sleep, walking and mental stress.

68. Defendants Dr. Harrigan, MDA, Ms. Lindgren-HSA, Ms. Nation, N. Bailey, RN all violated plaintiff's Eighth Amendment rights by continued violations in failing to respond reasonably on Four occasions, (6/20/17, 7/9/19, 10/12/21 and on 10/26/21) right after surgery complications and failed to give orders and oversee the plaintiff's medical complications adequately. They totally disregarded the risk and harm of the plaintiff's medical condition.

CLAIM SIX:

69. Plaintiff was subjected to deliberate indifference by failure to provide treatment and was denied medical care.

70. * Plaintiff incorporates paragraph 1 through 48 as though they were stated fully.

71. Defendants Ms. C. Lindgren-HSA, Ms. Nation, Mr. Bayer, PA, Ms. Lindsey and Dr. John McGaugh-MAT violated plaintiff's Eighth Amendment rights by denying medical attention on 10/13/21 through 10/15/21 when he was deprived of being placed in observation for out-patients after surgery. Plaintiff was denied medical access when he started to complain to medical staff Mr. Bayer, Ms. Lindsey, Dr. John McGaugh and N. Bailey, RN while on lockdown he was in extreme pain and shown them all the bruises in his groin and abdomen.

He repeatedly informed BOP officials and Officer Hartworth and Mrs. Steiner that he needed medical assistance and they failed to provide treatment and denied medical attention after being seen for a serious medical problem. Plaintiff received no care for three days and resulted in loss of his left testicle, permanent disfigurement to the scrotum and testicles, dysfunctional erections, loss of sensation and obliterated opportunity to procreate as well as loss of pleasure for him and his partner.

72. Defendants Ms. Lindsey and Mr. Bayer, PA violated plaintiff's Eighth Amendment rights by denying plaintiff medical treatment when he requested on 10/15/21 approximately at 7:30 a.m as she was making rounds, passing pills due to lockdown. Defendant stopped at cell #225 where plaintiff was housed and he complained to Ms.. Lindsey about extreme pain and told her that he had his groin and abdomen full of bruises and that it looks pretty bad and that he needed ice packs. She replied by stating "put some ice on it!" Plaintiff was on lockdown and could not get ice himself.

Also Mr. Bayer, PA made rounds on approximately 10/13/21 through 10/15/21 and plaintiff showed him the bruises and complained of the pain and he ignored plaintiff and kept walking saying "I'll be back!" Plaintiff received no medical care and ended up losing left testicle due to being denied treatment after repeatedly asking for medical attention and received none. Plaintiff had history of surgery complications and he was ignored and neglected that caused plaintiff more harm than good.

73. Defendants Ms. Lindsey and Mr. Bayer, PA violated plaintiff's Eighth Amendment right by denying medical treatment when plaintiff had to self report his surgery complications he was having on 10/13/21 through 10/15/21 every morning to defendants when they came to supply him with his medication and plaintiff repeatedly asked for medical attention and received none. Plaintiff even showed his bruises to the defendants and the officials and they simply did nothing. Plaintiff ended up in the emergency room with an infected testicles and among other injuries.

CLAIM SEVEN:

74. Plaintiff was subjected to deliberate indifference by failure to provide treatment and delay in getting medical attention.

75. *Plaintiff incorporates paragraph 1 through 48 as though they were stated fully herein.

76. Defendants Ms. Lindgren-HSA, Ms. Nation, Mr.. Bayer, PA, Ms. Lindsey and Dr. John McGaugh violated plaintiff's Eighth Amendment rights by delaying getting medical attention on 7/9/19 when they had knowledge of surgery complications plaintiff suffered and then diagnosed on 7/18/19 with swollen scrotum, inflammation, extreme pain and a testicle the size of a softball until Plaintiff's medical problem worsened as a result; and ended up in emergency room on 1/13/20. Then plaintiff went through a gap in treatment for Twenty-two (22) months before he received treatment for another planned surgery on 10/12/21.

77. Defendants Ms. Lindgren-HSA, Ms. Nation, Mr. Bayer, PA, Ms. Lindsey and Dr. John McGaugh-MAT on 10 /12/21 was notified that plaintiff started having surgery complications. Plaintiff complained and reported the extreme pain and horrible bruises that were beginning to to appear all over his groin and abdomen right after the surgery was performed on him. Plaintiff advised Ms. Lindsey and Mr Bayer, PA when they delivered his medication to his cell that his medical need was urgent and he was in extreme pain and that his whole groin and abdomen was horribly bruised.

From 10/12/21 to 10/15/21, plaintiff repeatedly asked for medical care and received none. Plaintiff ended up in the emergency room with an infected testicle and possible "gang-greene" as a result of three days delay in treatment, that caused permanent damage and loss to testicle, dysfunctional erections, loss of sensation, disfigured scrotum and obliterated his bloodline among other present injuries.

78. Defendants Ms. Lindgren-HSA, Ms. Nation, Mr. Bayer, PA, Ms. Lindsey, Dr. John McGaugh-MAT violated Plaintiff's Eighth Amendment rights by delaying getting treatment on 10/15/21 after they seen visible knowledge that plaintiff had lost his left testicle. The Health Care providers above failed to schedule a plan or an order right after Urologist Dr. Harrigan suggested my condition was urgent on 10/15/21. Plaintiff had to suffer from extreme pain, discomfort, loss of sleep, loss of activities and loss of appetite due to this two week delay, living with a dead testicle in his body until 10/26/21.

79. Defendants Ms. Lindgren-HSA, Ms. Nation, N. Bailey, RN violated plaintiff's Eighth Amendment rights by engaging in continued violations by delays from 7/9/19; when they found out about plaintiff ending up in the emergency room. Then from 1/13/21 until 10/12/21, a Twenty-two month delay, received treatment from another unsuccessful surgery. Then from 10/15/21 until 10/26/21, an eleven day delay to remove dead testicle.

CALIM EIGHT:

80. Plaintiff was subjected to deliberate indifference by failure to be provided treatment and interfered with plaintiff's prescribed treatment.

81. *Plaintiff incorporates paragraph 1 through 48 as though they were stated herein.

82. Defendants Ms. Lindgren-HSA, Ms. Nation, Mr Bayer, PA, Ms. Lindsey and Dr. John McGaugh-MAT violated plaintiff's Eighth Amendment rights by interfering with plaintiff's prescribed treatment after the post-operation surgery physician Dr. Harrigan discharged plaintiff on 10/12/21, then recommended and ordered pain medications and ice packs to be used for a certain amount of time and the above defendants failed to provide the prescribed treatment and follow recommendations; also failed to carry out the treatment that the Urologist prescribed or ordered.

83. Defendants Ms. Lindsey and Mr. Bayer, PA violated Plaintiff's Eighth Amendment rights by interfering with plaintiff prescribed treatment when on 10/13/21 through 10/15/21, Plaintiff repeatedly asked for some ice packs when defendants came to deliver his medication. Plaintiff reported and complained to Ms. Lindsey that he needed ice packs for his swollen scrotum and was not getting it because of lockdown. Ms. Lindsey replied "to put some ice on it!" when she knew he could not obtain it due to lockdown and officials not providing ice either.

Defendant Mr. Bayer, PA approximately on or about 10/13/21 through 10/15/21 also delivered plaintiff's medication and was advised of the urgent medical need plaintiff was having. Mr. Bayer, PA then dropped the medication in the "bean hole" and said "I'll be back." ... and he did not come back. He failed to give the proper treatment or order the necessary treatment as well as follow up with attention as needed.

84. Defendant John McGaugh-MAT violated plaintiff Eighth Amendment rights by interfering with plaintiff's prescribed treatment on 10/26/21 when defendant, John McGaugh-MAT, removed a fluid drain placed by Urologist Dr. Harrigan, who recommended that it not be moved without urologist instructions or order. On 11/24/21, Plaintiff ended up in the emergency room due to possible infection because Urologist could not be reached to preform removal procedure that was scheduled for four weeks on 10/26/21. Even the hospital staff on 11/24/21 did not attempt to remove the drain without the Urologist instructions. Plaintiff had to endure pain and infection for another two weeks, when Dr. John McGaugh then performed the procedure on 10 /26/21. Defendant John McGaugh could of caused more harm than good by substituting his judgement over the Urologist's orders.

E. PREVIOUS LAWSUITS

Have you ever filed a lawsuit, other than this lawsuit, in any federal or state court while you were incarcerated? ✓ Yes ___ No (*check one*).

If your answer is "Yes," complete this section of the form. If you have filed more than one previous lawsuit, use additional paper to provide the requested information for each previous lawsuit. Please indicate that additional paper is attached and label the additional pages regarding previous lawsuits as "E. PREVIOUS LAWSUITS."

Name(s) of defendant(s): N/A

Docket number and court: N/A

Claims raised: _____

Disposition: (is the case still pending? has it been dismissed?; was relief granted?) _____

Reasons for dismissal, if dismissed: _____

Result on appeal, if appealed: _____

F. ADMINISTRATIVE REMEDIES

WARNING: Prisoners must exhaust administrative remedies before filing an action in federal court regarding prison conditions. See 42 U.S.C. § 1997e(a). Your case may be dismissed or judgment entered against you if you have not exhausted administrative remedies.

Is there a formal grievance procedure at the institution in which you are confined?

✓ Yes ___ No (*check one*)

Did you exhaust administrative remedies?

✓ Yes ___ No (*check one*)

G. REQUEST FOR RELIEF

State the relief you are requesting or what you want the court to do. If additional space is needed to identify the relief you are requesting, use extra paper to request relief. Please indicate that additional paper is attached and label the additional pages regarding relief as "G. REQUEST FOR RELIEF." WHEREFORE, THE PLAINTIFF RESPECTFULLY PRAYS THAT THIS HONORABLE COURT DOES:

A) DECLARE THAT THE ACTS & OMISSIONS DESCRIBED THEREIN VIOLATED THE PLAINTIFF'S RIGHTS UNDER THE CONSTITUTION AND LAWS OF THE UNITED STATES;

B) ORDER THE DEFENDANT- CHRISTOPHER T. HARRIGAN-MOUTAIN PEAK UROLOGIST TO PAY COMPENSATORY & PUNITIVE DAMAGES OF $12,000,000 DOLLARS IN THIS §1983-ACTION;

C) ORDER DEFENDANTS- F.B.O.P. MEDICAL STAFF/PRISON OFFICIALS TO PAY COMPENSATORY & PUNITIVE DAMAGES OF $12,000,000 DOLLARS IN THIS §1331-BIVENS ACTION;

D) ORDER ALL DEFENDANTS IN BOTH ACTIONS TO PAY REASONABLE ATTORNEY FEES, INCLUDING ALL COURT COSTS & FINES; AND

E) GRANT ANY & ALL OTHER JUST AND EQUITABLE RELIEF THAT THIS HONORABLE COURT DOES DEEMS NECESSARY BY LAW.

H. PLAINTIFF'S SIGNATURE

I declare under penalty of perjury that I am the plaintiff in this action, that I have read this complaint, and that the information in this complaint is true and correct. *See* 28 U.S.C. § 1746; 18 U.S.C. § 1621.

Under Federal Rule of Civil Procedure 11, by signing below, I also certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending or modifying existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

Rafael Garcia
(Plaintiff's signature)

2/16/2023
(Date)

(Form Revised December 2017)