

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO
APR 23 2024
JEFFREY P. COLWELL
CLERK

Civil Action No. _____
(To be supplied by the court)

JOSE S. GIRON _____, Plaintiff

v.

DIRECTOR STANCIL, COLORADO DEPT OF CORR-
ECTIONS, _____,

Jury Trial requested:
(please check one)
☒ Yes ☐ No

CHIEF MEDICAL OFFICER JOHN/JANE DOE,

CORRECTIONAL HEALTH PARTNERSHIP (CHP) THIRD PARTY DESIGNEE JOHN/JANE DOE

SENIOR EXECUTIVE SERVICES MANAGER
JOHN/JANE DOE, _____, Defendant(s).

SEE: ATTACHED PAGE 1-a DEFENDANTS.

(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 listed in the above caption must be identical to those contained in Section B. Do not include addresses here.)

PRISONER 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.

ADDITIONAL DEFENDANTS

CLINICAL SERVICES ADMINISTRATIVE MANAGER JOHN/JANE DOE

COLORADO DEPT OF CORRECTIONS (CDOC) HEADQUARTERS INFORMATION
CONTROL NURSE (HQ-ICN) JOHN/JANE DOE

JEREMIAH VELASQUEZ NURSE PRACTITIONER.

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.

Jose S. Giron, #131202, Arkansas Valley Correctional Facility, Unit 4,
12750 Hwy 96, at Lane 13, Ordway, CO. 81034

(Name, prisoner identification number, and complete mailing address)

N/A.

(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."

Colorado Department of Corrections (CDOC) Director Stancil,
Defendant 1: Colorado Dept. of Corrections, Central Office, 1250 Academy Park Loop,
(Name, job title, and complete mailing address)

Colorado Springs, CO. 80910.

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 Director of the Colorado Department of Corrections (CDOC) failed to promulgate Policy and Procedure, and failed to Train his subordinates, which said failures were the cause of plaintiffs irreparable injuries (amputated appendage) and pain and suffering; said failures are custom and procedure, and are a pattern causing plaintiffs injuries and suffering as well as multiple other CDOC inmates like (amputation) injuries and sufferings, Due to deliberate indifference and medical negligence, Malpractice. This is a Defendant 1 is being sued in his/her ☒ individual and/or ☒ official capacity. deliberate pattern causing multiple amputations of CDOC Inmates limbs.

Colorado Dept. of Corrections Chief Medical Officer John/Jane Doe,
Colorado Dept. of Corrections, Central Office, 1250 Academy Park Loop,
Colorado Springs, CO. 80910.

Defendant 2:

(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? XXX Yes No (*check one*). Briefly explain:
Defendant Chief medical Officer John/Jane Doe, was deliberately indifferent to plaintiffs serious medical infectious condition, and was medically negligent and malpractice, when defendant refused to authorize plaintiffs immediate care and treatment by a "infectious wound nurse", to treat and care for plaintiffs serious infectious condition, resulting in plaintiff suffering severe infection, and amputation of his foot appendage. This is a deliberate pattern causing amputations of multiple CDOC Inmate limbs.

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

Defendant John/Jane Doe, liaison-Designee of the Colorado Dept. of Corrections with the 'Correctional Health Partnership', contracting insurance company for CDOC inmates medical treatment and care, and Designee

(Name, job title, and complete mailing address)

for inmate Third Party Rights under said contract, (C.H.P.), was deliberately indifferent to plaintiffs serious medical condition, and was medically negligent and performed malpractice, by denying plaintiff the emergency medical treatment and care for his severe infectious foot wound, which caused plaintiff to have his foot appendage amputated. This is a deliberate pattern causing multiple amputations of CDOC Inmates Limbs.

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

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

B.

SEE: DEFENDANTS INFORMATION, PAGE 3-a.

C. JURISDICTION

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

XXX 42 U.S.C. § 1983 (state, county, and municipal defendants)

 Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971)
(federal defendants)

XXX Other: (*please identify*) Plaintiff invokes this Honorable Courts Supplemental Jurisdiction on all Colorado State Law violations, of deliberate indifference, medical negligence and malpractice, and all other violations of Colorado State laws to be later determined.

B. DEFENDANTS INFORMATION

Defendant 4: Defendant Senior Executive Services Manager John/Jane Doe,
Colorado Dept. of Corrections, Central Office, 1250 Academy Park Loop,
Colorado Springs, CO. 80910

Defendant was acting under color of State and Federal Law.

Defendant Senior Executive Services Manager John/Jane Doe was deliberately indifferent to plaintiffs serious medical condition, and was medically negligent and performed malpractice when said defendant failed to promulgate policy and procedure and/or failed to order the activation of the 'infectious wound nurse' to treat and care for plaintiffs infectious wound causing aggravation of the infected wound, and the amputation of plaintiffs foot appendage; further defendant failed to train his/her subordinates, in the treatment and care of infectious wounds, promulgate policy and procedure for same, resulting in the amputation of plaintiffs foot appendage. This is a deliberate pattern causing multiple amputations of CDC inmates limbs.

Defendant is being sued in his/her individual and Official capacities.

Defendant 5: Defendant Clinical Services Administration Manager John/Jane Doe,
Colorado Dept. of Corrections, Central Office, 1250 Academy Park Loop,
Colorado Springs, CO. 80910.

Defendant was acting under color of State and Federal Law.

Defendant Clinical Services Administration Manager John/Jane Doe was deliberately indifferent to plaintiffs serious medical condition, and was medically negligent and performed malpractice when said defendant failed to promulgate policy and procedure and/or failed to order the activation of the 'infectious wound nurse' to treat and care for plaintiffs infectious wound causing aggravation of the infected wound, and the amputation of plaintiffs foot appendage; further defendant failed to train his/her subordinates, in the treatment and care of infectious wounds, promulgate policy and procedure for same, resulting in the amputation of plaintiffs foot appendage. This is a deliberate pattern causing multiple amputations of CDC inmates limbs.

Defendant ~~is~~ sued in his/her individual and official capacities.

Defendant 6: Colorado Dept. of Corrections (CDC) Headquarters Information Control Nurse (HQ-ICN) John/Jane Doe. Colorado Dept. of Corrections, Central Office, 1250 Academy Park Loop, Colorado Springs, CO. 80910.

Defendant was acting under color of State and Federal Law.

Defendant CDC Headquarters Information Control Nurse John/Jane Doe was deliberately indifferent to plaintiffs serious medical condition, and medically negligent and performed malpractice, when defendant deliberately failed in his/her duties to officially document in the CDC information medical records that the culpable CDC defendants, supra, and others unknown at this time to plaintiff, were deliberately indifferent to plaintiffs serious medical condition, and other CDC inmates like medical conditions, and the deliberate and negligent and malpractice failure to treat and care for plaintiffs serious medical condition of a infectious wound, and to activate the treatment and care of a 'infectious wound nurse' which was the cause of plaintiffs aggravation of his infectious wound, resulting in the amputation of plaintiffs foot appendage. This is a deliberate pattern causing multiple amputations of CDC inmate limbs.

Defendant is sued in his/her individual and official capacities.

SEE: B. DEFENDANTS INFORMATION

PAGE 3-b.

B. DEFENDANTS INFORMATION

Defendant 7: Defendant Nurse Practitioner Jeremiah Velasquez, Arkansas Valley Correctional Facility, 12750 Hwy 96, at Lane 13, Ordway, CO. 81034.

Defendant was acting under color of State and Federal Law.

Defendant Nurse Practitioner Jeremiah Velasquez was deliberately indifferent to plaintiffs serious medical condition, and was medically negligent and performed medical malpractice, when said defendant, with full knowledge of plaintiffs serious infected wound condition, CANCELLED the 'Urgent Request' for a 'general surgical consultation' for possible surgical intervention, on 12-12-2022, when defendant knew plaintiff needed the surgical consult to address the serious infected condition of plaintiffs foot and left small toe, and that said surgical consult, with a '**infectious wound provider**', could have prevented the amputation of plaintiffs toe, instead of waiting until 1-18-2023, 36 days later, allowing the infected wound to fester and grow worse, before plaintiff was allowed the 'off site' surgical consult and surgical intervention, which required at this late date, amputation; defendant was deliberately indifferent in the cancellation of the 12-12-2022 surgical consult, and it was medical negligence and malpractice to cancel same, resulting in plaintiffs amputation. This constitutes a deliberate pattern causing multiple amputations of CDC Inmate limbs.

Defendant is sued in his individual capacity.

Plaintiff incorporates the defendants and claims and facts and evidences into each of the other claims, due to the inter-relatedness of the facts and evidences of each claim one to the others.

See: CASE FACTS beginning at page 3-c.

CASE FACTS*

On 11-7-2022 Plaintiff submitted a 'Medical Request for Care' (kite), due to a open wound on plaintiffs left foot, which was caused by the ill fitting diabetic shoe and brace plaintiff was wearing. Plaintiff has been a diabetic, dependent on insulin for many years.

On 11-14-2022 plaintiff spoke to the facility nurse about the open wound on plaintiffs left foot's small toe; the nurse at the facility (Arkansas Valley Correctional Facility [AVCF]) summoned the physicians assistant to examine the open wound, and the physicians assistant (PA) ordered the prescription of 1000 Mg of Tylenol, 1000 Mg of Ibuprophen, and a 'Broad Spectrum Antibiotic' for 7-days. Neither the nurse or the PA cleaned or treated the open wound; additionally, the facility does not have a 'infectious wound nurse' on staff.

On 12-3-2022 plaintiffs left foot is swollen and red, and plaintiff is in severe pain, the small toe on plaintiffs left foot is now completely Black from the infection in the open wound, and the tissue is dying in the small toe.

On 12-6-2022 plaintiff went to the facility medical clinic for a hearing test, and the nurse upon witnessing the condition of plaintiffs swollen left foot and black small toe, and she called the doctor, who upon witnessing the state of plaintiffs foot and small toe infection, ordered pain medication for 7-days, and ordered a X-ray of the infected area. The doctor stated he wanted to wait on the results of the X-ray before he determines what course of action to take on the infected foot and black toe.

On 12-7-2022 plaintiff went in to the facility medical clinic for a blood pressure check and it was at this point that AVCF medical decided to begin actively treating the infected wound, which said infectious wound began 30 days earlier on 11-7-2022. A bandage was placed on plaintiffs blacken small toe.

On 12-8-2022 plaintiff went to facility medical clinic at 8:00 a.m. for the ordered X-Ray on his left foot and infected and blackened small toe to see if the infection had reached plaintiffs left foot and leg bone areas. At 1:30 p.m. plaintiff had a blood pressure check performed, and medical changed the bandage on plaintiffs infected black small toe.

On 12-9-2022 at 2:00 p.m. plaintiff went to the facility medical clinic to have the bandage changed on his blackened small left foot toe; upon witnessing the condition of plaintiffs infected and blackened small toe, the nurse Francis, summoned Nurse Practitioner Love (NP), and showed him that the foot and toe were 'hot' and very painful, and NP Love ordered antibiotics for 10-days, and nurse Francis gave plaintiff a shot of antibiotic. Plaintiff asked if his new diabetic shoe brace had arrived as yet (which was the original cause of the wound), and they stated no.

On 12-12-2022 plaintiff received a bandage change and took the remainder of his prescribed pain medication. 'Urgent request for surgery' CANCELLED by AVCF medical provider. (NP Velasquez, J.) which had been requested by N.P. K. Love.

On 12-14-2022 plaintiff is in severe pain, and received a bandage change. No pain medications.

On 12-15-2022 plaintiff was forced to stand in the medication line for over 1-hour to receive the antibiotic; his blood glucose level had dropped too low for his required insulin.

On 12-16-2022 plaintiff received a bandage change at 2:00 p.m.; Health Services Administrator Lindsay Gouty was the person who viewed plaintiffs infected left foot and his blackened small toe (necrosis); HSA Gouty was displeased with the state of plaintiffs foot and small toe, and took photographs of it, and sent photographs, expressing her concern to

See: CASE FACTS, continued at 3-d.

CASE FACTS

defendants in the Central Office of the CDOC, in Colorado Springs, Colorado. This occurred on 12-16-2022, 8-days after the 'urgent Surgical Request' had been submitted, and then cancelled by defendant N.P. J. Velasquez on 12-12-2022.

On 12-14-2022 AVCF medical Amy M. Lopez faxed defendant correctional Health partnership (CHP) for authorization for 'urgent surgery'.

On 12-22-2022 per AVCF notes, AVCF Linda M. Paro states CHP received the request for the urgent surgery.

On 12-28-2022 per Linda M. Paro, CHP approved **surgical** consult.

On 12-29-2022 the second request was made by N.P. K. Love for a 'urgent Ortho'visit; N.P. Love states:"(Plaintiff) a 37 year old diabetic patient with possible osteomyelitis of the distal phalanx of the fifth digit has been on several rounds of antibiotics...for the past 4-6 weeks; has '**dark blackened skin**'; "It appears that the black skin is splitting off from the good tissue".

On 1-06-2023 CHP approved the surgical consult.

On 1-09-2023 the 'scheduler notes' were sent to (outside doctor) Dr. Minihanes office.

On 1-13-2023 the surgical consult was completed.

On 1-18-2023 plaintiffs small toe on his left foot was amputated.

PERTINENT MEDICAL FACTS.

1. On 11-7-2022 plaintiff submitted a Medical Request for Care due to the open wound on plaintiffs left foot small toe from the ill fitting diabetic shoe wear and brace,
2. On 11-14-2022 plaintiff spoke to the AVCF medical personnel about the open infected wound on his left foot, small toe; AVCF medical did what they were able, but, AVCF medical does not have a nurse 'Certified' in the treatment of infectious wounds. Nurse Frances L. Wright stated to HSA Lindsey Gouty, that AVCF has no 'Certified Infectious Wound Nurse', and that Nurse Wright is willing to go take the training to be certified for said expert training; this is critical, due to the high volume of diabetic patient/inmates at AVCF, and the pattern of P/Inmates losing limbs due to their diabetically infected wounds.
3. On 12-3-2022 plaintiffs left foot is swollen and red, and his small toe is **BLACK** with necrosis (tissue death),
4. On 12-6-2022 plaintiff went to AVCF medical for a hearing test, and upon the nurse seeing plaintiffs foot and toe, called the doctor, who ordered pain medication and a X-Ray to determine if the infection has spread to the foot or leg bones.
5. On 12-7-2022 plaintiff, after suffering the infected wound for 30 days, began receiving treatment for the infected wound, a bandage was placed on plaintiffs wound; **Surgical consult sent.**
6. On 12-8-2022 plaintiff received the ordered X-Ray of his foot.
7. On 12-9-2022 Plaintiff went to AVCF medical for medical care of his open infected wound, walking with a cane, with a very painful gait; there is no dressing on his infected toe wound which is swollen with black tissue; plaintiff is given a stack of 2x2 gauze to self care the wound in his cell area.
8. On 12-12-2022 defendant J. Velasquez cancelled the request for a 'urgent surgical consultation' for the infected wound, despite his own medical notes in support of the urgent surgical consultation, which state in part:"Fifth MTP of left foot is black in color; pat-

See: Pertinent medical
facts at 3-e.

3-d.

PERTINENT MEDICAL FACTS

ient has been on antibiotics without any resolution to fifth MTP. Patient reports extreme pain and tenderness to fifth MTP of left foot in addition to lateral edge of foot. During physical exam patient would physically jump off of exam table with light palpation of the area. Due to history of diabetes, physical exam and concerns of toe ischemia patient would highly benefit from a general surgery consult for possible surgical intervention".

9. On 12-20-2022 plaintiff requests that N.P. K. Love 'Debride' the infected wound, to try to remove the infected black skin and tissue, N.P. Love advises that "that may not be the 'best idea' in this (AVCF medical) setting"; plaintiff requested this as the infection in the wound is simply getting worse, and without a 'trained infectious wound nurse' he is going to end up losing his limb.

10. On 12-23-2022 H.S.A. Lindsay Gouty "Reached out to CDOC scheduler to see if they can get plaintiff into general surgery 'sooner' than later. That as of this date a consult has not been approved or denied".

11. On 12-26-2022, AVCF medical clinic, daily dressing changes, awaiting surgery consult, nurse noticed that plaintiffs toe is 'black and odorous', and notified the 'provider' that plaintiff is not currently on antibiotic, and there's no change in the wound.

12. On 12-28-2022 N.P. K. Love orders another X-Ray of plaintiffs left foot; black skin is splitting off foot.

13. On 12-29-2022 N.P. K. Love requests a 'Urgent ortho visit' for plaintiff, submitted to defendant CHP by Linda M. Paro, 16 days after defendant Velasquez cancelled the first 'urgent ortho request' on 12-12-2022; this is 'second request' for surgical consult.

14. On 1-06-2023 defendant CHP approves the 12-12-2022 'general surgical request' of defendant N.P. J. Velasquez, after he cancels the urgent surgical request on 12-12-2022, and 25 days after the cancellation of the urgent surgical consult.

15. On 1-13-2023 the surgical consultation is completed.

16. On 1-17-2023 the Provider Review is Completed (N.P. K. Love).

17. On 1-18-2023, plaintiff is taken to the outside hospital facility St. Thomas-Moore and his left ~~foot~~ small toe is amputated, 37 days after defendant J. Velasquez cancelled N.P. K. Love's urgent ortho consult on 12-12-2022, (N.P. K. Love's urgent ortho consult was requested 12-7-2022).

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."

Plaintiff was Denied his Guaranteed Rights under the U.S. Constitution Amendment 8 to be Free of Cruel and Unusual Punishments, 14th Amendment to Due Process of CLAIM ONE: of Law and Equal Protection of the Law; and Plaintiff was Denied his Rights under Colorado State Laws to be Free of Medical Negligence and Malpractice.

Claim one is asserted against these Defendant(s):

Colorado Department of Corrections (CDOC) Director Stancil.

Supporting facts: Defendant Director Stancil has a Duty owed to plaintiff and other CDOC Inmates, to ensure their wellbeing through the CDOC and its employees who are Director Stancil's subordinates, by Director Stancil promulgating Policies and Procedures and the Training of his employee subordinates, to ensure that they are in accordance with the laws mandating their proper conduct in their departmental daily activities.

Defendant Stancil failed in this Duty owed to plaintiff by failing to promulgate policies and procedures, and properly train his subordinate employees, by and through his co-defendant Administrative managers, to ensure that the CDOC medical staff at each CDOC facility were properly staffed, and that they were trained in their duties as mandated under the law, by failing to ensure that the position of a 'Infectious Wound Nurse' is staffed at each facility, and/or that a nurse at each CDOC facility is 'Trained' and 'Certified', as a 'Infectious Wound Nurse', to ensure that plaintiff and other inmates would receive prompt, adequate and ongoing treatments for any infectious wounds that said inmates may suffer at a CDOC facility.

Defendant Stancil's failures, supra, were the proximate cause of plaintiffs injuries. Defendant Stancil knew or should have known his Duties mandated under the Law, and was deliberately indifferent to those Duties owed to plaintiff and other CDOC inmates, which has resulted in plaintiffs infectious wound requiring amputation, as well as the pattern of other CDOC inmates at Arkansas Valley Correctional Facility, and in other CDOC facilities unknown to plaintiff at this time, suffering the same infectious diabetic wound injuries, requiring amputation of their body appendages, in violation of defendant Stancil's Duties of Care owed plaintiff and other CDOC inmates under the Law. Defendant Stancil is sued in his INDIVIDUAL and OFFICIAL CAPACITIES, for said custom and practices causing said injuries.

Arkansas Valley Correctional Facility (AVCF) medical department during the period in which plaintiff suffered his permanent injuries, and which minimally three other diabetic inmates also suffered diabetic infectious wounds requiring amputation of their body appendages, did not have a nurse trained in 'infectious wound care', which is the direct cause of plaintiff's, and other CDOC inmates permanent injuries and suffering.

See: STATEMENT OF CLAIMS CONTINUED. Page 4-a.

D. STATEMENT OF CLAIMS CONTINUED.

CLAIM TWO: Plaintiff was Denied his Guaranteed Rights under the U.S. Constitution Amendment 8 to be Free of Cruel and Unusual Punishments, 14th Amendment to Due Process of Law and Equal Protection of the Law; and plaintiff was Denied his Rights under Colorado State Laws to be Free of Medical Negligence and Malpractice.

Claim Two is asserted against Defendant Chief Medical Officer John/Jane Doe, CDOC.

Supporting Facts: Defendant CDOC Chief Medical Officer John/Jane Doe (actual name will be furnished when discovered post discovery) has a Duty of Care owed to plaintiff and other CDOC Inmates, to ensure their well being, including their medical safety and care, through defendants Duties and Responsibilities as a medical employee under the law with the CDOC (CDOC= Colorado Dept. of Corrections, supra and infra).

Defendant Chief Medical Officer has a legal duty to ensure that all CDOC medical employees and subordinants are compliant with laws and policies and procedures, and enforce same in their daily activities in treating and caring for CDOC inmates, including plaintiff. Defendant Chief medical officer has failed in this duty, by failing to promulgate policies and procedures and failing to train defendants employee-subordinants in 'Infectious Wound Care', and to ensure that each CDOC facility has a 'Infectious Wound Nurse' on the medical staff at the facility, and certified as trained in the treatment of infectious wounds, to ensure the proper, adequate and ongoing treatment and care of inmates with infected wounds, including plaintiff and others with diabetic infected wounds. Defendant chief medical officer has failed in this duty, which was the direct cause of plaintiffs permanent injuries and suffering, with the amputation of his body appendage due to AVCF not having a 'infectious wound nurse' on staff at said facility, or any nurse certified as trained in the treatment and care of 'infected wounds' including diabetic infectious wounds, such as plaintiff, which has caused the amputation of plaintiffs foot appendage and at least three other inmate diabetic patients losing their bodily appendages through amputation. Defendants failures constitute a custom, practice and pattern of said illegal irregularities, causing plaintiffs and other CDOC inmates harms and suffering, at AVCF and other CDOC facilities unknown to plaintiff at this time.

Defendant chief medical officer was deliberately indifferent to plaintiffs serious medically infected condition, and was medically negligent and performed medical malpractice when defendant chief medical officer of the CDOC refused to authorize plaintiffs immediate treatment and care by a 'infectious wound nurse', of which the defendant chief medical officer of the CDOC knew or should have known of plaintiffs seriously infected wound, of which AVCF medical personnel had alerted the defendant chief medical officer and his subordinant staff at the Central Office of the CDOC, by and through their requests that plaintiff be approved for a 'surgical consult', and these requests for 'surgical consult' had been ignored and/or denied for a extensive period of time until through said denials, plaintiffs infection had progressed to the point of requiring amputation. This is a custom, policy and pattern of defendant chief medical officer, that has resulted in plaintiffs Tort injuries causing amputation, and the Tort injuries and amputations of at least three other AVCF diabetic inmate patients. Defendant chief medical officer is sued in his/her INDIVIDUAL CAPACITY.

See: D. STATEMENT OF CLAIMS CONTINUED. Page 4-b.

D. STATEMENT OF CLAIMS CONTINUED.

CLAIM THREE: Plaintiff was Denied his Guaranteed Rights under the U.S. Constitution Amendment 8 to be Free of Cruel and Unusual Punishments, 14th Amendment to Due Process of Law and Equal Protection of Law; and plaintiff was Denied his Rights under Colorado State Laws to be Free of Medical Negligence and Malpractice.

Claim Three is asserted against Defendant Correctional Health Partnership (CHP) CDOC Third Party Beneficiary (of inmate medical/contract third party beneficiary rights) Designee John/Jane Doe, (hereinafter CHP/DOC TPR Designee).

Supporting Facts: Defendant CHP/DOC TPR Designee (actual name will be furnished when discovered post discovery) has a Duty of Care owed to plaintiff and other CDOC inmates, to ensure their well being, including their medical safety and care, and treatments, to diagnose and treat their serious medical conditions, through the liaison position with the CDOC to the CHP Insurance Company; this Designee of plaintiff and other CDOC inmates Third Party Rights as 'beneficiaries under the contract entered into between the CDOC and CHP insurance Company', this defendant functions as a "Gatekeeper" approving or denying the treatment and care requested by the CDOC facility medical personnel where a inmate/patient may happen to be incarcerated at; in this instant matter before bar, defendant CHP/DOC TPR designee, defendant while knowing of plaintiffs serious infected medical condition, failed to approve the necessary medical treatment and care required by plaintiff to avoid the amputation of his left foot appendage, and deliberately did so for a prolonged period of time, resulting in, and was the cause of plaintiffs aggravation of his serious infected medical condition, requiring amputation of plaintiffs foot appendage.

The deliberate indifference of CHP/DOC TPR Designee defendant John/Jane Doe, and the medical negligence and malpractice demonstrated by said defendant, is the direct cause of plaintiffs medical Tort injury and suffering, as well as the other inmate/patients (at least three others) at AVCF, and the permanent disfiguring injuries suffered by plaintiff and other CDOC diabetic inmate/patients. Defendant is sued in his/her INDIVIDUAL CAPACITY.

CLAIM FOUR: Plaintiff was Denied his Guaranteed Rights under the U.S. Constitution Amendment 8 to be Free of Cruel and Unusual Punishments, 14th Amendment to Due Process of Law and Equal Protection of Law; and plaintiff was Denied his Rights under Colorado State Laws to be Free of Medical negligence and Malpractice.

Claim ~~four~~ is asserted against Defendant Senior Executive Services Manager John/Jane Doe, CDOC. (Defendant Senior Executive Services Manager hereinafter: 'SES Man.').

Supporting facts: Defendant SES Man. John /Jane Doe (actual name will be furnished when discovered post discovery) has a Duty of care owed to plaintiff and other CDOC inmates, to ensure their wellbeing, including their medical safety and care, and treatments, to diagnose and treat their serious medical conditions; defendant was deliberately indifferent to plaintiffs serious medical condition, and was medically negligent and performed medical malpractice when said defendant failed to promulgate policy and procedure and/or failed to order the activation of the 'infectious wound nurse' to treat and care for plaintiffs infectious wound causing aggravation of the infected wound, and the amputation of plaintiffs foot appendage; further defendant failed to train his/her subordinates, in the treatment and care of infectious wounds, failed to promulgate policy and procedure for same, resulting in the amputation of plaintiffs foot appendage. This is a deliberate pattern of custom and policy, causing multiple amputations of CDOC inmates limbs. Defendants deliberate failures were the cause of plaintiffs injuries and pain and suffering in the chain of causation. Defendant is sued in his/her INDIVIDUAL AND OFFICIAL CAPACITIES.

See: D. STATEMENT OF CLAIMS, Page 4-c.

D. STATEMENT OF CLAIMS CONTINUED.

CLAIM FIVE: Plaintiff was denied his Guaranteed Rights under the U.S. Constitution Amendment 8 to be Free of Cruel and Unusual Punishments, 14th Amendment to Due Process of Law and Equal Protection of Law; and plaintiff was Denied his Rights under Colorado State Laws to be Free of Medical negligence and Malpractice.

Claim five is asserted against Defendant 'Clinical Services Administration Manager John/Jane Doe' (hereinafter Defendant CSA Man.); Colorado Dept of Corrections, Central Office, Colorado Springs, CO.(Actual name will be furnished post discovery).

Supporting Facts: Defendant CSA Man. John/Jane Doe was deliberately indifferent to plaintiffs serious medical condition , and was medically negligent and performed malpractice when said defendant failed to promulgate policy and procedure and/or failed to order the activation of the 'infectious wound nurse' to treat and care for plaintiffs infectious wound causing aggravation of the infected wound and the amputation of plaintiffs foot appendage; further defendant failed to train his/her subordinates, in the treatment and care of infectious wounds, promulgate policy and procedure for same, resulting in the amputation of plaintiffs foot appendage. This is a deliberate custom and pattern causing multiple amputations of CDOC inmate limbs.

Defendant is sued in his/her INDIVIDUAL and OFFICIAL CAPACITIES.

CLAIM SIX: Plaintiff was Denied his Guaranteed Rights under the U.S. Constitution Amendment 8 to be Free of Cruel and Unusual Punishments, 14th Amendment to Due Process of Law and Equal Protection of the Law; and plaintiff was Denied his Rights under Colorado State Laws to be Free of Medical Negligence and Malpractice.

Claim Six is asserted against CDOC Headquarters Information Control Nurse John/Jane Doe (actual name will be furnished after discovery), said defendant hereinafter is referred to as: 'HQ-ICN'.

Supporting Facts: Defendant HQ-ICN John/Jane Doe was deliberately indifferent to plaintiffs serious medical condition of infectious wound, and medically negligent and performed medical malpractice, as a nurse, when defendant deliberately failed in his/her duties to officially document in the CDOC information medical records that the culpable CDOC defendant, *supra*, and others unknown at this time to plaintiff, were deliberately indifferent to plaintiffs serious medical condition, and other CDOC like medical conditions of diabetic infectious wounds, and the deliberate, negligent and malpractice failures to treat and care for plaintiffs serious infected wound medical condition, and to activate the treatment and care for plaintiffs serious infected wound by a 'infectious wound nurse', which was the cause of plaintiffs aggravation of his infectious wound, resulting in the amputation of plaintiffs foot appendage. This is a custom and pattern causing multiple amputations of CDOC diabetically infected limbs.

Defendant is sued in his/her INDIVIDUAL and OFFICIAL CAPACITIES.

CLAIM SEVEN: Plaintiff was Denied his Guaranteed Rights under the U.S. Constitution Amendment 8 to be Free of Cruel and Unusual Punishments, 14th Amendment to Due Process of Law and Equal Protection of law; and plaintiff was Denied his Rights under Colorado State Laws to be Free of Medical Negligence and Malpractice.

Claim Seven is asserted against Defendant Nurse Practitioner Jeremiah Velasquez, nurse at AVCF.

See: D. STATEMENT OF CLAIMS, Page 4-d.

D. STATEMENT OF CLAIMS CONTINUED.

Supporting Facts: Defendant Nurse Practitioner (hereinafter NP Velasquez) Velasquez was deliberately indifferent to plaintiffs serious medical condition, and was medically negligent and performed malpractice when said defendant with full knowledge of plaintiffs serious infected diabetic wound condition CANCELLED the 'Urgent Request' for a surgical consult for surgical intervention on 12-12-2022, when defendant knew plaintiff needed the surgical consult to address the serious infected condition of plaintiffs left foot and small toe, and that said surgical consult, with a '**infectious wound provider**' could have prevented the amputation of plaintiffs toe, instead of waiting until 1-18-2023, 36 days later, allowing the infected wound to fester and grow worse, before plaintiff was allowed the 'off site' surgical consult and surgical intervention, which required at this late date amputation; defendant was deliberately indifferent in the cancellation of the 12-12-2022 surgical consult, and it was medical negligence and malpractice to cancel same, denying plaintiff the attention of a 'infectious wound nurse care', resulting in plaintiffs amputation. This is custom and practice, and a pattern causing the multiple amputations of CDCOC diabetic inmate limbs.

Defendant is sued in his INDIVIDUAL CAPACITY.

E. PREVIOUS LAWSUITS

Have you ever filed a lawsuit, other than this lawsuit, in any federal or state court while you were incarcerated? ___ Yes ~~XXX~~ 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 N/A

Docket number and court:

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?

~~XXX~~ Yes ___ No (check one)

Did you exhaust administrative remedies?

~~XXX~~ Yes ___ No (check one)

Original form provided free of Charge by CO DOC Legal Services to
Offender Girm DOC# 131202
Date OCT 18 2023

G. REQUEST FOR RELIEF

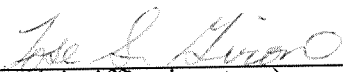
State the relief you are requesting or what you want the court to do. If additional space is needed to identify the relief you are requesting, use extra paper to request relief. Please indicate that additional paper is attached and label the additional pages regarding relief as "G. REQUEST FOR RELIEF."

1. One (1) Million Dollars Compensatory Damages against each named defendant.
2. Two (2) Million Dollars Punitive Damages against each named defendant.
3. Declaratory Judgment stating plaintiffs Rights under the law, and defendants duties owed to plaintiff and other CDCO Inmates under the law.
4. Costs of this litigation.
5. Other such further relief that this Honorable Court deems just and proper to serve the ends of Justice.

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.


(Plaintiff's signature)

§ 56
42- 10-2024.
(Date)

(Revised November 2022)

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Colorado Department of Corrections
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Register # 131202
Unit 4-C
Address 12750 Hwy 96 Lr. 13
City/State/Zip Ordway, CO
81034

Office Of The Clerk
United States District Court
901-19th Street, Room A105
Denver, CO. 80294-3589



<u>AVCF</u>		<u>4-10-24</u>	
FACILITY		DATE RCV'D	
<u>VALDER</u>		<u>20207</u> <u>24</u>	
STAFF LAST NAME	ID#	INT	
<u>13/202</u>	<u>Giron</u>	<u>Joe</u>	<u>S</u>
DOC#	OFFENDER NAME	INT	