

SUPERIOR COURT OF NEW JERSEY
HUNTERDON COUNTY – LAW DIVISION

TATIANNA HARRISON,

Plaintiff,

-against-

NEW JERSEY DEPARTMENT OF
CORRECTIONS; VICTORIA KUHN;
MARCUS HICKS; SEAN ST. PAUL;
PATRICIA MCGILL; AMIR BETHEA;
ANDRAIA BRIDGES; BRANDON BURGOS;
LUIS GARCIA; JAY HERNANDEZ; JOSE
IRIZARRY; COUREY JAMES; DESIREE
LEWIS; EDDIE MOLINA; GUSTAVO
SARMINETO, JR.; MARIKA SPROW;
KLEITMY URENA; TARA WALLACE;
SANDRA LAPEKAS; MATTHEW FASCHAN;
ANTHONY VALVANO; DOE OFFICERS #1-
15; and DOE SUPERVISORS #1-10,

Defendants.

No. _____

**COMPLAINT AND
JURY DEMAND**

Plaintiff Tatianna Harrison, by and through her attorneys Kaufman Lieb
Lebowitz & Frick LLP, alleges as follows:

PRELIMINARY STATEMENT

1. On the night of January 11-12, 2021, dozens of correctional officers at the Edna Mahan Correctional Facility for Women (EMCFW) brutally attacked six incarcerated Black women as part of a premediated raid that will go down in history as one of the most barbaric examples of prisoner abuse in the State of New Jersey.

2. Armed with batons and riot shields and outfitted in riot control gear—including masks and face shields to hide their identities—the officers stormed a cellblock of EMCFW’s Restorative Housing Unit (RHU). They pepper sprayed,

handcuffed, beat, and abused six women, including Plaintiff Tatianna Harrison, before dragging them limply out of their cells in so-called “cell extractions.”

3. As a result of the extreme violence and abuse—including sexual abuse—suffered that night by Ms. Harrison and others, at least 29 staff members were suspended and ten were criminally charged by the New Jersey Office of the Attorney General.

4. New Jersey Governor Phil Murphy was so “deeply disturbed and disgusted” by the attack that he announced plans to *permanently shut down* EMCFW, stating that closing the facility is “the only path forward.”¹ The New Jersey Department of Corrections (DOC) Commissioner resigned as a result of the attack, as did the Ombudsman.

5. This attack is an example of our correctional system at its very darkest: After beating and abusing six women without cause or justification, the officers involved in the attack falsified reports and documents to cover up their illegal acts—even going so far as to suggest that the dire injuries they caused were either non-existent or self-inflicted.

6. But the injuries that Ms. Harrison and others suffered that night are real and lasting.

7. Approximately six to ten officers stormed Ms. Harrison’s cell, threw her to the ground, and proceeded to repeatedly punch, kick, and stomp on her head and body.

¹ Governor Murphy commissioned an investigation and report of the January 11 raid by the law firm Lowenstein Sandler LLP. The June 3, 2021 “Report of Investigation: January 11, 2021 Cell Extractions at the Edna Mahan Correctional Facility for Women” is referred to in this Complaint as the “Governor’s Report.” It is publicly available at: https://d31hzlkh6di2h5.cloudfront.net/20210606/fo/54/dc/od/6460359539e664e7f827163b/Report_of_Investigation_red..pdf.

8. Knowing Ms. Harrison had a serious pre-existing spinal injury—which had previously paralyzed her from the waist down for eight months—officers intentionally targeted her back while one officer knelt on her spine.

9. She was handcuffed the entire time.

10. Officers also ripped Ms. Harrison’s shirt open and pulled her pants and underwear down, exposing her groin and buttocks.

11. Unable to stand after the beating, Ms. Harrison was dragged out of her cell and eventually brought to the prison’s medical unit. Despite the fact she was bleeding and exhibiting tell-tale signs of a concussion, including severe nausea and impaired vision, she received no medical treatment. Instead, the nurse on duty falsely reported that she had “no new marks, bruises or injuries” and had not complained of any “pain or discomfort after extraction from cell.”

12. While she was in the triage room, an Associate Administrator of EMCFW, Defendant Sean St. Paul, warned Ms. Harrison, in sum and substance, that his guards would beat her up every night until the incarcerated women showed them sufficient respect.

13. When Ms. Harrison returned to her cell, her belongings were strewn across the hallway, her hearing aids were missing, and her cell was covered in blood and pepper spray. She had no change of clothes and no blankets and—because her window did not fully close—she was exposed to the frigid winter air. She spent rest of the night freezing and in severe pain, with her asthma flaring from the cold and pepper spray.

14. Over the following months, EMCFW staff continued to deny Ms. Harrison adequate medical attention, charged her with imaginary infractions, and denied her commissary and contact with the outside world.

15. The extreme abuse Ms. Harrison endured—the unjustified raid, the horrendous violence, the intentional degradation, the fear for her life—was not an isolated incident. It was the inevitable culmination of an unchecked system of institutional abuse and violence that has raged at EMCFW for decades, infiltrating the facility to its core.

16. It is time for the abuse to end, and for the perpetrators this violence to be finally held to account. This action seeks damages for the extraordinary abuses Ms. Harrison endured and the violations of her civil rights.

JURISDICTION AND VENUE

17. The claims herein arise under the New Jersey Constitution and the New Jersey Civil Rights Act, N.J.S.A. § 10:6-2.

18. Venue lies in this County because the incident occurred in Hunterdon County, New Jersey.

JURY DEMAND

19. Plaintiff demands a trial by jury in this action.

PARTIES

20. Plaintiff Tatianna Harrison is a 22-year-old woman currently incarcerated at Edna Mahan Correctional Facility for Women.

21. Defendant New Jersey Department of Corrections (“NJDOC”) is a public entity amenable to suit under New Jersey law with its administrative headquarters located at 1300 Stuyvesant Ave, Trenton, New Jersey 08618 in the County of Mercer. Defendant NJDOC owns, operates, and controls Edna Mahan Correctional Facility for Women (“EMCFW”) located at 30 County Rd 513, Clinton, New Jersey 08809 in the County of Hunterdon.

22. Defendant Victoria Kuhn is, as of filing, the Acting Commissioner of NJDOC, acting under color of state law. She is sued in her official capacity.

23. Defendant Marcus Hicks was at all relevant times the Commissioner of NJDOC until his resignation on June 18, 2021, acting under color of state law. He is sued in his individual capacity.

24. Defendant Sean St. Paul was at all relevant times an Associate Administrator of EMCFW, acting under color of state law. He is sued in his individual capacity.

25. Defendant Patricia McGill was at all relevant times an Associate Administrator of EMCFW (prior to January 25, 2021) and the Administrator of EMCFW (since January 25), acting under color of state law. She is sued in her individual capacity.

26. Defendant Amir Bethea was at all relevant times a Sergeant at EMCFW, acting under color of state law. He is sued in his individual capacity.

27. Defendant Andraia Bridges was at all relevant times a Sergeant at EMCFW, acting under color of state law. She is sued in her individual capacity.

28. Defendant Matthew Faschan was at all relevant times a Sergeant at EMCFW, acting under color of state law. He is sued in his individual capacity.

29. Defendant Anthony Valvano was at all relevant times a Sergeant at EMCFW, acting under color of state law. He is sued in his individual capacity.

30. Defendant Brandon Burgos was at all relevant times a Correctional Officer at EMCFW, acting under color of state law. He is sued in his individual capacity.

31. Defendant Luis Garcia was at all relevant times a Correctional Officer at EMCFW, acting under color of state law. He is sued in his individual capacity.

32. Defendant Jay Hernandez was at all relevant times a Correctional Officer at EMCFW, acting under color of state law. He is sued in his individual capacity.

33. Defendant Jose Irizarry was at all relevant times a Correctional Officer at EMCFW, acting under color of state law. He is sued in his individual capacity.

34. Defendant Courey James was at all relevant times a Correctional Officer at EMCFW, acting under color of state law. He is sued in his individual capacity.

35. Defendant Desiree Lewis was at all relevant times a Correctional Officer at EMCFW, acting under color of state law. She is sued in her individual capacity.

36. Defendant Eddie Molina was at all relevant times a Correctional Officer at EMCFW, acting under color of state law. He is sued in his individual capacity.

37. Defendant Gustavo Sarmiento Jr. was at all relevant times a Correctional Officer at EMCFW, acting under color of state law. He is sued in his individual capacity.

38. Defendant Marika Sprow was at all relevant times a Correctional Officer at EMCFW, acting under color of state law. She is sued in her individual capacity.

39. Defendant Kleitmy Urena was at all relevant times a Correctional Officer at EMCFW, acting under color of state law. He is sued in his individual capacity.

40. Defendant Tara Wallace was at all relevant times a Correctional Officer at EMCFW, acting under color of state law. She is sued in her individual capacity.

41. Defendant Sandra Lapekas was at all relevant times a Registered Nurse at EMCFW, acting under color of state law. She is sued in her individual capacity.

42. Defendants Doe Officers #1-15 are sued under fictitious designations as Plaintiff has been unable to determine their names, notwithstanding reasonable efforts to do so. At all relevant times, they were correctional officers or other employees of NJDOC, acting under color of state law. They are sued in their individual capacities.

43. Defendants Doe Supervisors #1-10 are sued under fictitious designations as Plaintiff has been unable to determine their names, notwithstanding reasonable efforts to do so. At all relevant times, they were correctional officers or other employees of NJDOC, acting under color of state law. They are sued in their individual capacities.

44. Defendants Bethea, Bridges, Faschan, Valvano, Burgos, Garcia, Hernandez, Irizarry, James, Lewis, Molina, Sarmiento, Sprow, Urena, Wallace, Doe Officers #1-15, and Doe Supervisors #1-10 are referred to as “the Officer Defendants.”

FACTUAL ALLEGATIONS

The January 11 Raid

45. At approximately 10:30 p.m. on January 11, 2021, approximately 20 to 40 correctional officers entered the RHU, a part of the prison separated from general population where prisoners are placed because of disciplinary infractions.

46. The officers wielded batons and riot shields and wore riot control gear, including masks and face shields to hide their identities.

47. The officers then proceeded to target five cells and six women in particular: Casche Alford (RHU Cell 9); Plaintiff Tatianna Harrison and Ajila Nelson (RHU Cell 12); Raequan Rollins (RHU Cell 15); Desiree Dasilva (RHU Cell 17); and Emmalee Dent (RHU Cell 4).

48. All the women who were attacked are Black.

49. After first attacking Ms. Alford, officers next attacked Ms. Harrison and her cellmate, Ms. Nelson.

50. Ms. Harrison was 22 years old at the time of the attack.

51. Ms. Harrison is hard of hearing and has relied on hearing aids since childhood.

52. Officers, including Defendant Bethea, approached Ms. Harrison and Ms. Nelson's cell and demanded the two women "cuff up."

53. Both Ms. Nelson and Ms. Harrison complied and placed their hands through the port of their cell door.

54. They were both handcuffed without incident.

55. Ms. Harrison was handcuffed extremely tightly, cutting off circulation and leaving long-lasting marks.

56. Despite Ms. Harrison's and Ms. Nelson's compliance, approximately six to ten officers then unlocked their cell and stormed inside, knocking Ms. Harrison and Ms. Nelson to the ground. The officers who entered the cell, and/or assaulted Ms. Harrison in the RHU hallway after Ms. Harrison was pulled from the cell, including Defendants Bethea, Burgos, Garcia, Irizarry, Hernandez, James, Sarmiento, Urena, and Doe Officers #1-5, are referred to as "the Attacking Defendants."

57. Upon information and belief, Defendants Bridges, Faschan, Lewis, Sprow, St. Paul, Valvano, Wallace, Doe Officers #6-15, and Doe Supervisors #1-10 were present in the immediate vicinity when Ms. Harrison and Ms. Nelson were attacked. They are referred to as "the Non-Intervening Defendants."

58. One or more of the Attacking Defendants, including Defendant Irizarry, slammed a riot shield into Ms. Harrison's face, slamming the back of her head into the bunk and nearly knocking her unconscious.

59. One or more of the Attacking Defendants then picked up Ms. Harrison and threw her to the ground.

60. While Ms. Harrison was handcuffed and pinned to the ground, one or more of the Attacking Defendants repeatedly punched and kicked her in her head, torso, and legs.

61. Ms. Harrison had a pre-existing spine injury from approximately 2018. As a result of that injury, she had been paralyzed from the waist down for approximately eight months in or around 2018.

62. Ms. Harrison had previously told Defendants James and Sarmiento of her existing back injuries.

63. Upon information and belief, the Attacking Defendants, including Defendants James and Sarmiento, knew of Ms. Harrison's existing spinal cord injury and intentionally targeted her back and spine with punches, kicks, and stomps.

64. One or more of the Attacking Defendants, including Defendant Irizarry, knelt on Ms. Harrison's spine while she was handcuffed and lying on the ground.

65. At the same time, another Attacking Defendant punched and kicked her head into the ground while a third Attacking Defendant stomped on her legs.

66. One or more of the Attacking Defendants ripped Ms. Harrison's shirt open and pulled her pants and underwear down, exposing her groin and buttocks.

67. One or more of the Attacking Defendants deployed pepper spray against Ms. Harrison and Ms. Nelson.

68. As the Attacking Defendants beat Ms. Harrison, one called out for Defendant Tara Wallace to give him "leg irons." She did so.

69. Ms. Harrison was afraid the Attacking Defendants would kill her.

70. She begged, cried out, and pleaded that she was not resisting.

71. The Attacking Defendants, including Defendants James and Sarmiento, then dragged a terrified and injured Ms. Harrison out of the cell.

72. The Attacking Defendants then pushed Ms. Harrison into the hallway floor and proceeded to continue to punch, grab, and kneel on Ms. Harrison.

73. One or more of the Attacking Defendants repeatedly and forcefully punched Ms. Harrison while she was pinned to the ground.

74. One or more Attacking Defendants forcibly shackled Ms. Harrison's legs while she was pinned to the ground.

75. The attack on Ms. Harrison, including the assaults in her cell and in the hallway, lasted approximately two minutes.

76. Ms. Harrison was handcuffed throughout the entirety of the attack.

77. During the attack, none of the Non-Intervening Defendants intervened to stop it.

78. Upon information and belief, the Non-Intervening Defendants were present in the immediate vicinity of Ms. Harrison's cell during the attack and had the opportunity to intervene, and yet took no steps to prevent or stop the attack on Ms. Harrison nor to protect her from harm.

79. Upon information and belief, the Defendant Officers, including Defendant Faschan, intentionally blocked or impeded video cameras during the attack on Ms. Harrison to shield their illegal actions from view. Defendant Hicks observed, "there were instances [during the raid] where the camera was pointed at the floor, or it wasn't even on I don't think that was coincidental."²

² Governor's Report at 53.

80. Following the attack, Defendant Officers, including Defendants Bethea, Bridges, Lewis, and Valvano, carried and dragged Ms. Harrison to the medical unit.

81. Ms. Harrison was bleeding at this time; she was demonstrating signs of a concussion, including severe nausea and impaired vision; her head and hands were in severe pain; and her back hurt so much she could barely stand.

82. Despite these complaints, the nurse on duty, Defendant Lapekas, refused to perform a body assessment and/or to accurately evaluate Ms. Harrison's condition.

83. Defendant Lapekas falsely reported in Ms. Harrison's medical records that she conducted a body assessment of Ms. Harrison, that she found "no new marks, bruises or injuries," and that Ms. Harrison did not complain of pain or discomfort, as shown in Figure 1:

<p>01/12/2021 - Internal Other: Chart Note for body assessment Provider: Sandra Lapekas,RN Location of Care: Edna Mahan Correctional Facility for Women</p> <p style="text-align: center;">Chart Note</p> <p>Narrative: 12:40-Body assessment done. No new marks, bruises or injuries noted. No c/o pain or discomfort. after extraction from cell.</p> <p>Problems/Allergies/Observation Changes</p> <p>TATIANNA HARRISON Female DOB:10/12/1998 Booking #:1188138 SBI:000964360E Ins: NJDOCIC (NJDOCIP)</p> <p>Orders to be Processed and/or Transcribed</p> <p>]</p> <p>Electronically Signed by Sandra Lapekas,RN on 01/12/2021 at 3:38 AM</p>
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Figure 1

84. This report was false.

85. Upon information and belief, Defendant Lapekas intentionally falsified the substance this report.

86. Ms. Harrison was not treated for her injuries or provided any medication.

87. Ms. Harrison was not decontaminated after being pepper sprayed.

88. Ms. Harrison was then placed in a triage room with Ms. Rollins.

89. While Ms. Harrison and Ms. Rollins were in the triage room, Defendant St. Paul confronted them. St. Paul said, in sum and substance, that for as long as he ran the prison, he would make sure attacks like this one occurred every night until his guards were treated with sufficient respect.

90. Officers then transported Ms. Harrison back to her cell. When she arrived, nearly all her belongings, including her legal papers, clothing, commissary, and personal effects were scattered in the hallway. Her hygiene products had been dumped down the toilet and her television had been purposefully broken. Her bedsheets and blankets had been confiscated.

91. Her cell was covered in blood and residue from pepper spray.

92. Her hearing aids were missing.

93. She was not given any change of clothes or blankets and was forced to sleep without blankets during the cold January night.

94. As a result of the cold and the pepper spray covering her cell, Ms. Harrison's pre-existing asthma flared that night.

95. Following the attack, Ms. Harrison was written up for multiple disciplinary infractions.

96. Those charges were false.

97. Nonetheless, Ms. Harrison was denied access to her commissary and contact with the outside world through NJDOC's email system, among other punishments.

98. Upon information and belief, those charges are stayed pending NJDOC's investigation of the raid.

99. Following the raid, Defendant Bethea submitted a fabricated Use of Force report regarding the attack on Ms. Harrison.

100. Defendant Bethea's report falsely stated that officers did not use chemical agents, even though officers deployed pepper spray against her.

101. Defendant Bethea's report falsely stated that Ms. Harrison did not sustain any injuries during the assault, even though she sustained extensive injuries.

102. Defendant Bethea's report falsely stated that the reasons officers employed force against Ms. Harrison were that she was "displaying signs of imminent violence" and "demonstrating assaultive behavior," such that force was an "immediate necessity to prevent injury to [Ms. Harrison] or others," even though Ms. Harrison was in fact cooperative and compliant with officers' demands and posed no threat to officers or others. Defendant Bethea's own report notes elsewhere that Ms. Harrison and Ms. Nelson complied with officers' demands before Defendant Bethea ordered his team to enter their cell.

103. Indeed, the Governor's Report concluded that the raid was completely unjustified: "As opposed to an attempt to quell a legitimate emergency, the Cell

Extractions were a misguided effort by frustrated employees to restore order and mete out discipline in response to splashing and other events.”³

104. Defendant Bethea’s report identified six officers who used force against Ms. Harrison: Defendants Bethea, Burgos, Garcia, Irizarry, Lewis, and Sprow.

105. Upon information and belief, Defendant Bethea intentionally omitted the names of other Attacking Defendants—including Defendants James, Hernandez, and Urena, and Doe Officers #1-5—from his report.

106. Defendant Bethea included Defendants Lewis and Sprow in his report despite the fact neither entered Ms. Harrison’s cell. Upon information and belief however, Bethea intentionally omitted the names of the other Non-Intervening Defendants—including Defendants Faschan, St. Paul, Valvano, Wallace, Doe Officers #6-15, and Doe Supervisors #1-10—from his report.

107. Defendant Bethea’s report additionally noted that no staff members were injured during the incident.

108. The Governor’s Report confirms that “custody staff filed false reports regarding several of the Cell Extractions,” and that the “false reports caused inaccurate . . . reports to be circulated to NJDOC officials, delaying their awareness of the fact that inmates had been seriously injured.”⁴

109. In addition to beating and abusing Ms. Harrison, Defendants also attacked Ms. Alford, Ms. Nelson, Ms. Rollins, Ms. Dasilva, and Ms. Dent, causing them severe injuries. In some instances, Defendants also sexually abused them. As with Ms.

³ *Id.* at 51.

⁴ *Id.* at 55-56.

Harrison, Defendants denied these other incarcerated women adequate medical care and falsified reports about the attacks.

Ms. Harrison's Lasting Injuries and Trauma

110. Following Defendant Lapekas's false report of Ms. Harrison's injuries on the night of the attack, Ms. Harrison repeatedly reported to the medical unit with symptoms including severe pain in her back, hand, chest, head, and neck.

111. On January 12, Ms. Harrison reported chest pain and difficulty breathing and was brought back to the medical unit for a second time. There, Ms. Harrison's complaints were again rebuffed. Defendant Lapekas told Ms. Harrison, in sum and substance, that she would refuse to treat Ms. Harrison until Ms. Harrison begged. Defendant Lapekas also told Ms. Harrison, in sum and substance, that Ms. Harrison would need her (Lapekas) again someday. Ms. Harrison interpreted Ms. Lapekas' statement to be a threat.

112. Ms. Harrison was not decontaminated for multiple days following the attack and the pepper spray that was still on her body and clothing exacerbated her asthma, leading to headaches, coughing fits, and difficulty breathing.

113. In the days following the attack, Ms. Harrison repeatedly vomited and experienced severe headaches, dizziness, and nausea.

114. In the days following the attack, Ms. Harrison's back and legs ached when she walked, and she could walk only with difficulty.

115. In the days following the attack, Ms. Harrison repeatedly requested to be taken to the medical unit and Defendants denied her requests as a matter of course.

116. When she was next seen by a nurse on January 19, Ms. Harrison reported: "[M]y head, neck, and back been hurting and I have been throwing up since the 12th of

this month. That was when the Officers [] came into RHU and beat on us. My neck, back, and head pain has been getting worst each day. I need to be seen asap please because I feel that I have a concussion and I haven't been treated for the injuries that was cause by multiple officers from that night.”

117. The excessive force Defendants used against Ms. Harrison injured her back and exacerbated her pre-existing injuries, which had led to her being paralyzed from the waist down for roughly eight months in approximately 2018.

118. The excessive force Defendants used against Ms. Harrison impaired her vision in her right eye.

119. The excessive force Defendants used against Ms. Harrison also injured her right hand and exacerbated a pre-existing injury to her right hand. On January 20, Ms. Harrison reported to the medical unit with cuts and swelling on her right hand, and repeatedly reported to nurses that her hand was in pain and/or numb over the months following the attack.

120. Following another visit to the medical unit on January 22, Ms. Harrison again complained of the headaches and nausea she had experienced for the prior ten days and reported that she thought she was having small seizures in her sleep. The nurse on duty reported that Ms. Harrison was presenting with concussive symptoms.

121. Ms. Harrison was not seen by a neurologist until over a month after the nurse made this observation.

122. Weeks after the assault, Ms. Harrison was told by a prison physician that she had in fact suffered a concussion.

123. Despite multiple requests, Ms. Harrison's hearing aids were not immediately returned to her.

124. In fact, it was not until March 8, 2021—nearly two full months after the attack—that her hearing aids were replaced and her ability to hear fully was restored.

125. Ms. Harrison reported “excruciating” pain in her back to the nurse on duty on March 17, more than two months after the attack.

126. She continues to experience pain in her back, hand, chest, neck, and head, and severe pain running from the back of her head and neck down her right arm and into her hand.

127. She continues to experience greatly reduced strength in her right arm and is often forced to rely on her non-dominant hand.

128. Since the attack, Ms. Harrison has suffered severe anxiety, fear, and panic and has often been unable to sleep, eat, or keep her food down.

129. Ms. Harrison has suffered, and continues to suffer, extreme emotional distress as a direct result of the January 11 attack.

The January 11 Raid Should Never Have Happened

130. The January 11 raid was the direct result of EMCFW’s longstanding culture of dehumanization and abuse; its longstanding policies and practices of tolerating and failing to discipline corrections officers who abused inmates, failed to stop abuse, and/or wrote false reports to cover up abuse; and its inadequate and unenforced policies surrounding cell extractions.

131. These failures all permitted and caused the pervasive use of excessive force by corrections officers at EMCFW.

Inadequate Steps to Curb Longstanding Culture of Violence

132. At all relevant times, Commissioner Hicks and NJDOC were aware that EMCFW was plagued by horrendous officer-on-inmate violence and sexual abuse.

133. On September 10, 2020, Defendant Hicks admitted while testifying before the New Jersey Legislature that, for years, EMCFW had a “toxic culture” where the prisoner population at EMCFW was looked at as “less than human” and that this culture fostered inappropriate and sometimes criminal behavior by NJDOC employees at EMCFW.⁵

134. Following the January 11 raid, Defendant Hicks echoed these same sentiments in testimony to the New Jersey Legislature on April 8, May 3, and May 11, 2021.⁶

135. Addressing the January 11 raid in his April 8 testimony, Defendant Hicks admitted that “several women were brutally attacked by employees” and that “no one deserves the horrific treatment that these women endured.”⁷

136. Defendant Hicks further testified, on April 8, that “the sexual assault of offenders at Edna Mahan has plagued this Department and female prisons nationwide for decades,” that “the status quo cannot and will not go on,” and that “much change is needed” but “shifting the culture takes time.”⁸

⁵ Defendant Hicks’ September 10, 2020, testimony to the Senate Budget and Appropriate Committee is publicly available in video format only at: <https://www.njleg.state.nj.us/media/mp.asp?M=V/2020/SBAB/0910-0130PM-HO-1.mp4&S=2020>

⁶ Defendant Hicks’ April 8, 2021, testimony to the Assembly Judiciary and Women and Children Committees is referred to in this Complaint as “April 8 Testimony.” It is publicly available at: <https://www.njleg.state.nj.us/legislativepub/pubhear/ajuawco4082021.pdf>

Defendant Hicks’ May 11, 2021, testimony to the Senate Budget and Appropriate Committee is publicly available at: <https://www.njleg.state.nj.us/media/mp.asp?M=V/2021/SBAB/0511-0100PM-HO-1.mp4&S=2020>

⁷ April 8 Testimony at 11.

⁸ *Id.* at 15, 22.

137. In his April 8 testimony, Defendant Hicks allowed that, as the Commissioner of NJDOC—a position he has held since 2018—he has “the ability to make real change to address issues that have evaded appropriate attention and solutions for decades.”⁹

138. In that same testimony, however, Defendant Hicks ultimately laid blame for the January 11 raid on “employees who proactively chose to disregard established protocols and practices that are necessary for proper cell extractions, de-escalation, and searches.”¹⁰

139. But Defendant Hicks and NJDOC have long been aware of the officer-on-inmate violence and abuse at EMCFW, and they have actively handicapped efforts toward reform and enhanced oversight.

140. In April 2020, following two years of investigation, the Department of Justice’s Civil Rights Division (DOJ) and the U.S. Attorney’s Office for the District of New Jersey issued a scathing report finding that a longstanding sexually abusive culture exists at EMCFW and that the NJDOC had refused to take appropriate corrective action for years.¹¹

141. The DOJ report concluded that “NJDOC and Edna Mahan have been aware that their women prisoners face a substantial risk of serious harm from sexual abuse, and they have failed to remedy this constitutional violation.”¹²

⁹ *Id.* at 9.

¹⁰ *Id.* at 11.

¹¹ The April 2020 Report, “Investigation of the Edna Mahan Correctional Facility for Women,” is referred to in this Complaint as the “DOJ Report.” It is publicly available at: <https://www.justice.gov/opa/press-release/file/1268391/download>

¹² DOJ Report at 8.

142. “Officials at NJDOC and Edna Mahan have been on notice of incidents of staff sexual abuse of prisoners for years and have failed to adequately address the deficiencies that enabled the abuse to occur. By disregarding the obvious risks to prisoner safety, officials at Edna Mahan evinced a deliberate indifference to prisoners’ constitutional rights.”¹³

143. Investigators found that the “[s]exual abuse of women prisoners by Edna Mahan correction officers and staff is severe and prevalent throughout the prison;”¹⁴ that a “code of silence” and “culture of acceptance” pervades the facility;¹⁵ and that EMCFW “(1) deters prisoners from reporting staff sexual abuse due to the threat of retaliation; (2) fails to respond with appropriate investigations when women do report abuse; (3) fails to provide effective and confidential reporting mechanisms; and (4) provides inadequate supervision of prisoners, which presents opportunities for sexual abuse to occur.”¹⁶

144. Even more damning, the report observed that NJDOC and EMCFW staff “disregarded” many of the “minimum remedial measures” the DOJ had proposed and that, even of the proposals the DOJ agreed to, “many . . . are incomplete or lack acceptance at the facility level.”¹⁷

145. Among other things, the report found NJDOC and EMCFW continued to (1) discourage victim reporting by subjecting prisoners who report abuse by guards to

¹³ *Id.* at 22.

¹⁴ *Id.* at 5.

¹⁵ *Id.* at 5, 27.

¹⁶ *Id.* at 8.

¹⁷ *Id.* at 25.

segregation as a result of their reports; (2) refuse to inadequately supervise staff removing prisoners from their cell during daily body counts, when many assaults occur; (3) neglect to require the recusal of investigators who have personal relationships with the staff they are investigating, (4) fail to limit the duration of correctional officers' assignments, and (5) fail to implement policies addressing gender differences between male and female prisoners.¹⁸

146. The report concluded: "Edna Mahan prisoners continue to raise credible allegations of staff sexual abuse and sexual harassment, despite the reforms," finding that "many of the practices and attitudes that enabled the abuse to occur persist at Edna Mahan."¹⁹

147. Moreover, while NJDOC received funding in 2018 to start a body-worn camera pilot program, staff at EMCFW did not even begin participating until May 2021. The Governor's Report questioned whether, had officers been required to wear body-worn cameras on January 11, "the Cell Extractions would have occurred at all."²⁰

148. EMCFW's failure to address its longstanding culture of violence—through better training, more robust discipline, more body-worn cameras, and other policy and technological fixes—meant that NJDOC and EMCFW leadership left women incarcerated there exposed to and unprotected from a known and obvious risk of abuse and excessive force.

¹⁸ *Id.* at 25-26.

¹⁹ *Id.* at 26.

²⁰ Governor's Report at 61-62.

Failure to Discipline

149. Upon information and belief, staff at EMCFW accurately understood that they would not face serious consequences for perpetrating violence, excessive force, or abuse of inmates. Indeed, that is how a culture of dehumanization arose at EMCFW in the first place.

150. Despite government investigations and multiple lawsuits, staff at EMCFW conducted themselves with impunity and faced no real discipline for acts of excessive force and violence against incarcerated women.

151. The Governor's report noted that many of the officers involved in the January 11 raid had been subjected to discipline for improper behavior in the past. Specifically, a lieutenant involved had been found to have failed to properly record cell extractions; an officer had been disciplined for failing to complete a cell search in a professional manner; two supervisors were alleged to have engaged in violent conduct while off-duty; another officer had been arrested for domestic violence; and another senior ECMFW official had been found to have fired his gun while driving off duty *two separate times*.²¹

152. Despite these serious infractions, these officers were permitted to return to work at ECMFW, where they continued their wrongful conduct.

No Clear Rules on Cell Extractions

153. Cell extractions generally entail the forced removal of an inmate from her cell by an "extraction team," the members of which typically wear protective equipment

²¹ Governor's Report at 43-44.

and use body shields. Officers frequently employ force and pepper spray when conducting a cell extraction.

154. The Governor’s Report found that, although EMCFW had rules surrounding cell extractions, there was no clear rule “as to the required approval of a cell extraction, particularly as to whether NJDOC Central Office must be notified or provide approval.”²²

155. Further, while many officials interviewed for the Governor’s Report stated that conducting cell extractions during the night—as was done on January 11—is “highly disfavored,” upon information and belief, there were no clear rules or policies in place barring nighttime cell extractions.²³

156. Nor do there appear to have been any rules in place barring mass cell extractions, or clearing an entire wing, as was done on January 11.

157. The Governor’s Report found that there were detailed rules about the procedures for cell extractions, including assigned roles for each member of an extraction team and specific ways those members must announce themselves on camera.²⁴ However, upon information and belief, those rules were routinely ignored, flouted, or violated—as they were on January 11—without consequence.

158. Upon information and belief, when those rules were ignored, flouted, or violated, officers faced insufficient discipline from NJDOC.

159. Ultimately, the Governor’s Report concluded that the barbarity of the January 11 raid was a direct consequence of NJDOC’s insufficient rules surrounding cell

²² *Id.* at 18-19.

²³ *Id.* at 21.

²⁴ *Id.* at 17.

extractions—specifically, the lack of a clear requirement to obtain central office approval.

160. The report also highlighted the lack of sufficient training on cell extractions and proper use of force for EMCFW staff.

161. The report recommended that policies and procedures for cell extractions must be clearly communicated during regular trainings—indicating that NJDOC and EMCFW currently fail to adequately train staff on proper cell extraction procedures.²⁵

162. The report further recommended that EMCFW staff training include “more robust teaching on de-escalation and communication techniques,” as “the current level of training that new staff receives appears to be inadequate in these areas.”²⁶

163. The report also instructed NJDOC and EMCFW to “develop a more robust training program for cell extractions.”²⁷

Criminal Charges Stemming from the Raid

164. Prosecutors have criminally charged ten EMCFW correctional officers who participated in the January 11 raid. Prosecutors criminally charged nine of the Officer Defendants, including five of the Attacking Defendants.

165. On February 4, Defendant Bethea was charged with two counts of tampering with public records (under N.J.S.A. § 2C:28-7) and two counts of official misconduct (under N.J.S.A. § 2C:30-2).

²⁵ *Id.* at 64-65.

²⁶ *Id.* at 67.

²⁷ *Id.*

166. On February 4, Defendant Garcia was charged with one count of assault (under N.J.S.A. § 2C:12-1), one count of tampering with public records, and one count of official misconduct.

167. On February 4, Defendant Valvano was charged with one count of tampering with public records and one count of official misconduct.

168. On February 23, Defendant Faschan was charged with one count of tampering with public records and two counts of official misconduct.

169. On March 18, Defendant Irizarry was charged with two counts of assault and two counts of official misconduct.

170. On March 18, Defendant James was charged with one count of assault and one count of official misconduct.

171. On March 18, Defendant Sarmiento was charged with one count of assault and one count of official misconduct.

172. On March 18, Defendant Wallace was charged with one count of assault and one count of official misconduct.

173. On April 27, Defendant Bridges was charged with one count of official misconduct.

174. Upon information and belief, the charges against Defendants Bethea, Bridges, Faschan, Garcia, Irizarry, James, Sarmiento, Valvano, and Wallace are currently pending.

175. Following the release of the Governor’s Report, Governor Phil Murphy announced his intention to permanently close EMCFW.²⁸

176. In a June 7 press release, the Governor stated: “I am deeply disturbed and disgusted by the horrific attacks that took place on January 11. Individuals in state custody deserve to be treated with dignity and respect, and the officers involved in this incident, both directly and indirectly, abused their power to send a message that they were in charge. The excessive use of force, as outlined in the report, cannot and will not be tolerated by my Administration.”²⁹

177. Governor Murphy continued: “Edna Mahan Correctional Facility for Women has a long history of abusive incidents predating our Administration, and we must now commit ourselves to completely breaking this pattern of misconduct to better serve incarcerated women entrusted to the State’s care.”³⁰

FIRST CAUSE OF ACTION
N.J. Constitution/N.J. Civil Rights Act
Excessive Force/Cruel and Unusual Punishment
Against St. Paul and the Attacking Defendants

178. Plaintiff repeats and realleges the forgoing paragraphs as if fully set forth herein.

179. This claim is brought against Defendants in their individual capacity under the New Jersey Civil Rights Act, N.J.S.A. § 10:6-2(c), and/or, alternatively, directly pursuant to the New Jersey Constitution.

²⁸ The June 7 press release, “Governor Murphy Announces Intention to Close the Edna Mahan Correctional Facility for Women,” is publicly available at:
<https://nj.gov/governor/news/news/562021/approved/20210607a.shtml>.

²⁹ *Id.*

³⁰ *Id.*

180. Article 1, Paragraph 12 of the New Jersey Constitution prohibits the use of “cruel and unusual punishments.”

181. The New Jersey Civil Rights Act, N.J.S.A. § 10:6-2(c) provides a private cause of action for any person whose state constitutional rights have been violated.

182. On the night of January 11-12, 2021, the above-named Defendants used objectively unreasonable force against Plaintiff, causing serious injuries.

183. The actions and omissions of Defendant St. Paul foreseeably created an environment that posed a substantial risk of harm to Plaintiff by encouraging, permitting, and/or otherwise facilitating the above-named Defendants’ use of excessive force against Plaintiff.

184. The risk to Plaintiff was obvious and known to the above-named Defendants.

185. At all relevant times, the above-named Defendants were acting under color of state law.

186. The conduct of the above-named Defendants was willful, wanton, and reckless.

187. These acts violated the New Jersey Constitution’s prohibition on cruel and unusual punishments. N.J. Const. Art. 1, Par. 12.

188. The acts and omissions of the above-named Defendants caused Plaintiff substantial injury.

SECOND CAUSE OF ACTION
N.J. Constitution/N.J. Civil Rights Act
Failure to Intervene
Against St. Paul and the Officer Defendants

189. Plaintiff repeats and realleges the forgoing paragraphs as if fully set forth herein.

190. This claim is brought against the above-named Defendants in their individual capacity under the New Jersey Civil Rights Act, N.J.S.A. § 10:6-2(c), and/or, alternatively, directly pursuant to the New Jersey Constitution.

191. On the night of January 11-12, 2021, officers used objectively unreasonable force against Plaintiff, causing serious injuries.

192. On the night of January 11-12, 2021, St. Paul and the Officer Defendants were in the immediate vicinity of officers assaulting Plaintiff and using unconstitutionally excessive force against her and/or were aware of such force being used.

193. The use of physical force described above violated Plaintiff's right to be free from cruel and unusual punishment guaranteed by Article 1, Paragraph 12 of the New Jersey Constitution.

194. St. Paul and the Officer Defendants had a realistic opportunity to step in and prevent the unconstitutional use of force by their fellow officers against Plaintiff but failed to do so.

195. At all relevant times, St. Paul and the Officer Defendants were acting under color of state law.

196. The acts and omissions of St. Paul and the Officer Defendants caused Plaintiff substantial injury.

**THIRD CAUSE OF ACTION
N.J. Constitution/N.J. Civil Rights Act
Conspiracy to Use Excessive Force
Against St. Paul and the Officer Defendants**

197. Plaintiff repeats and realleges the forgoing paragraphs as if fully set forth herein.

198. This claim is brought against Defendants in their individual capacity under the New Jersey Civil Rights Act, N.J.S.A. § 10:6-2(c), and/or, alternatively, directly pursuant to the New Jersey Constitution.

199. The forced cell extraction on the night of January 11-12, 2021 was a premeditated and purposeful operation, done without legal cause or justification.

200. St. Paul and the Officer Defendants agreed, implicitly or explicitly, that malicious physical violence would be used against Plaintiff, as well as other women incarcerated at the RHU, as revenge or part of a vendetta against certain women incarcerated in the RHU, without legal cause or justification.

201. St. Paul and the Officer Defendants took steps in furtherance of this agreement by planning and carrying out the attack on Plaintiff and other women incarcerated in the RHU.

202. The use of physical force described above violated Plaintiff's right to be free from cruel and unusual punishment guaranteed by Article 1, Paragraph 12 of the New Jersey Constitution.

203. At all relevant times, Defendants were acting under color of state law.

204. The acts and omissions of Defendants caused Plaintiff substantial injury.

FOURTH CAUSE OF ACTION
N.J. Constitution/N.J. Civil Rights Act
Conspiracy to Cover Up Use of Excessive Force
Against St. Paul, the Officer Defendants, and Lapekas

205. Plaintiff repeats and realleges the forgoing paragraphs as if fully set forth herein.

206. This claim is brought against Defendants in their individual capacity under the New Jersey Civil Rights Act, N.J.S.A. § 10:6-2(c), and/or, alternatively, directly pursuant to the New Jersey Constitution.

207. Article 1, Paragraph 1 of the New Jersey Constitution provides that all people “are by nature free and independent, and have certain inalienable rights,” including “liberty.”

208. Article 1, Paragraph 9 of the New Jersey Constitution protects as “inviolable” the “right to trial by jury.”

209. The above-named Defendants ordered, were aware of, and/or participated in the January 11-12 cell extractions and failed to sufficiently record the extractions, filed false reports relating to the extractions and/or the injuries that resulted, or otherwise agreed to take steps to conceal and prevent the exposure of the true facts of the cell extractions.

210. The above-named Defendants agreed, implicitly or explicitly, to take steps to prevent the true facts about the officers’ actions and omissions during the January 11-12 cell extractions.

211. The above-named Defendants took steps in furtherance of this agreement that included but were not limited to intentionally failing to record portions of the

incident, falsifying reports, and otherwise attempting to frustrate any investigation into the incident.

212. The underlying malicious assault on Plaintiff violated her right to be free from cruel and unusual punishment protected by Article 1, Paragraph 12 of the New Jersey Constitution.

213. The conspiracy and actions taken in furtherance of it, as described above, interfered with Plaintiff's ability to seek vindication of the violation of her constitutional rights, which itself violated her right to due process and trial by jury as protected by Article I, Paragraphs 1 and 9 of the New Jersey Constitution.

214. At all relevant times, Defendants were acting under color of state law.

215. The acts and omissions of Defendants caused Plaintiff substantial injury.

FIFTH CAUSE OF ACTION
N.J. Constitution/N.J. Civil Rights Act
Supervisory Liability
Against NJDOC, Kuhn, McGill, Hicks, St. Paul, and Doe Supervisors #1-10

216. Plaintiff repeats and realleges the forgoing paragraphs as if fully set forth herein.

217. This claim is brought under the New Jersey Civil Rights Act, N.J.S.A. § 10:6-2(c), and/or, alternatively, directly pursuant to the New Jersey Constitution.

218. NJDOC had a long-standing policy, practice, or custom of permitting, tolerating, or failing to intervene against the use of excessive and unreasonable force by corrections officers against women incarcerated at EMCFW, in violation of Article 1, Paragraph 12 of the New Jersey Constitution.

219. The above-named Defendants knew that EMCFW was not safe. They knew that the prisoners at EMCFW faced a substantial risk of excessive force at the hands of

corrections officers working at the facility. They had been warned for years about this risk. The risk to prisoners of serious harm from excessive force was open and obvious.

220. Despite this knowledge, the above-named Defendants disregarded and were deliberately indifferent to this risk and failed to take adequate steps to protect prisoners from harm by corrections officers, including by failing to curb the culture of violence, failing to adequately discipline staff, and failing to implement clear rules and trainings on cell extractions.

221. The above-named Defendants directed their subordinates to use excessive force, were aware of their use of excessive force, and/or established and maintained a culture, custom, or practice of the use of excessive force against people incarcerated at EMCFW.

222. NJDOC had actual knowledge of the culture, custom, or practice of the use of excessive force against people incarcerated at EMCFW.

223. Defendant Hicks was aware of the policy, practice, or custom at EMCFW of using unreasonable and excessive force against people incarcerated there.

224. Defendant St. Paul was present during the malicious use of excessive force on January 11-12 and implicitly or explicitly endorsed and approved of his subordinates' actions. Indeed, he explicitly announced that the same use of excessive force would continue night after night.

225. Defendant Doe Supervisors #1-10 were present during the malicious use of excessive force on January 11-12 and implicitly or explicitly endorsed and approved of their subordinates' actions.

226. The above-named Defendants failed to adequately train, supervise, or discipline officers to prevent the use of excessive force against those incarcerated at EMCFW.

227. Further, the above-named Defendants failed to implement adequate training programs about proper forced cell extractions, use of force generally, audiovisual recording of forced cell extractions, and proper documentation and reporting of use of force, particularly with respect to incarcerated people housed in administrative segregation.

228. NJDOC's failure to implement adequate training, supervision, and/or discipline, even as it knew its officers would confront the need to use force against incarcerated people and had in the past used excessive force against these people, constituted deliberate indifference to the constitutional rights of Plaintiff and other women incarcerated at EMCFW.

229. The January 11 raid and attack and the accompanying violations of Plaintiff's rights protected by the New Jersey Constitution were the direct results of the longstanding culture, custom, or practice of the use of excessive force against people incarcerated at EMCFW and of the above-named Defendants' failure to adequately train, supervise, and discipline EMCFW officers who used excessive force.

230. The acts and omissions of the above-named Defendants' caused Plaintiff substantial injury.

SIXTH CAUSE OF ACTION
Law Against Discrimination: Disability Discrimination
Against NJDOC, Kuhn, and McGill

231. Plaintiff repeats and realleges the forgoing paragraphs as if fully set forth herein.

232. At all relevant times, Plaintiff was a person with a disability. Specifically, she has had a serious hearing impairment that has required the use of hearing aids since childhood. Plaintiff was thus disabled within the meaning of the New Jersey Law Against Discrimination (“NJLAD”). N.J.S.A. § 10:5-5(q).

233. NJDOC and/or EMCFW are “places of public accommodation” under the NJLAD. N.J.S.A. § 10:5-5(l).

234. Acting through officers at EMCFW, the above Defendants subjected Plaintiff to unlawful discrimination by, among other things, confiscating her hearing aids without basis and refusing to return them in a timely manner and failing to accommodate her disability by ensuring she had access to working hearing aids.

235. The above defendants were aware that their practices made it substantially likely that disabled individuals would be denied their statutorily protected rights under the NJLAD while incarcerated at EMCFW, and acted with deliberate indifference in failing to act to prevent or mitigate the denial of those rights.

236. The above Defendants were aware of Plaintiff’s need for hearing aids to participate meaningfully in the activities of her daily life. Defendants were aware that, without hearing aids, Plaintiff faced a serious risk of harm by being unable to advocate for and protect herself in the prison setting. Still, Defendants unlawfully and without cause confiscated Plaintiff’s hearing aids and then delayed their replacement for weeks.

237. As a proximate result of the above Defendants’ violations of the NJLAD, Plaintiff suffered damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully that the Court grant the following relief:

- A. Compensatory damages in an amount to be determined at trial;
- B. Punitive Damages against the St. Paul and the Officer Defendants;
- C. Reasonable costs and attorneys' fees under N.J.S.A. § 10:6-2(f), N.J.S.A. § 10:5-27.1, or other applicable law;
- D. Pre- and post-judgment interest to the fullest extent permitted by law; and
- E. Such other and further relief as the Court may deem just and proper, together with attorneys' fees, interest, costs, and disbursements of this action.

Dated: July 8, 2021
New York, New York

KAUFMAN LIEB LEBOWITZ &
FRICK LLP

_____/s/_____
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Attorneys for Plaintiff

**Motion for admission pro hac vice
forthcoming*

Civil Case Information Statement

Case Details: HUNTERDON | Civil Part Docket# L-000287-21

Case Caption: HARRISON TATIANNA VS N.J.

DEPARTMENT OF CORRECT

Case Initiation Date: 07/09/2021

Attorney Name: ALISON FRICK

Firm Name: KAUFMAN LIEB LEBOWITZ & FRICK LLP

Address: 10 E. 40TH ST STE 3307

NEW YORK NY 10016

Phone: 2126603222

Name of Party: PLAINTIFF : Harrison, Tatianna

Name of Defendant's Primary Insurance Company

(if known): Unknown

Case Type: CIVIL RIGHTS

Document Type: Complaint with Jury Demand

Jury Demand: YES - 6 JURORS

Is this a professional malpractice case? NO

Related cases pending: YES

If yes, list docket numbers: HNT-L-000109-21

Do you anticipate adding any parties (arising out of same transaction or occurrence)? YES

Are sexual abuse claims alleged by: Tatianna Harrison? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? YES

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO **Title 59?** NO **Consumer Fraud?** NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*

07/09/2021

Dated

/s/ ALISON FRICK

Signed