

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:

Chapter 11

TEHUM CARE SERVICES, INC.,

Case No. 23-90086 (CML)

Debtor.

**YESCARE’S REPLY TO THE OBJECTION OF
KEITH KELLY TO THE OMNIBUS MOTION TO ENJOIN
PLAINTIFFS FROM PROSECUTING CASES AGAINST RELEASED PARTIES**

The Omnibus Motion to Enjoin, ECF No. 2160, argued that plaintiffs who have active lawsuits against the Released Parties should be enjoined from further prosecuting those claims unless the Plan’s Injunctions and Consensual Claimant Release terminate or become void (*i.e.*, staying, but not yet dismissing those actions). YesCare notes that enjoining plaintiffs from prosecuting claims against Released Parties absent an uncured Default is consistent with Art. IV. 10., which provides in parallel that the Trusts “shall forbear from asserting or prosecuting any Released Estate Causes of Action between the Effective Dates and the Final payment Date unless a Settlement Payment Default occurs and is not cured”

Keith Kelly (herein, “Plaintiff”), the plaintiff in *Kelly v. YesCare, et. al.*, 23-cv-2432 (D. Md.) (the “Plaintiff’s Action”), argues that he should not be enjoined from prosecuting his claims against defendants Burnice Mace, NP, Janette Clark, NP, Asresahegn Getachew, MD, Nurse Stephanie Dawson, LNP, Nurse Amy L. Kelley, and Karen Coleman, RN (collectively, the “Former Employees”). Plaintiff’s opposition outright admits that the defendants named in his



complaint are “Released Parties.” ECF No. 2284 at 1. Nevertheless, Plaintiff argues he should not be enjoined from pursuing his claims against the Former Employees based on the conclusory assertion that the Former Employees are liable for the Plaintiff’s injuries and that the Plaintiff’s complaint “speaks for itself.” *Id.* at 1–2. As discussed below, the Court should reject Plaintiff’s arguments because: (1) the Former Employees fall within the Plan’s express definition of “Released Parties” because they are former employees of the Debtor and (2) Plaintiff’s claims are subject to the Channeling Injunction.

I. The Former Employees are “Released Parties” Because They are Former Employees of the Debtor

Plaintiff argues that he should be permitted to prosecute his case against the Former Employees. In doing so, Plaintiff concedes that he brought claims against “Released Parties.” *Id.* at 1–2. Because Plaintiff seeks to bring claims against individuals who qualify as “Released Parties” under the Plan, YesCare’s motion should be granted as to Plaintiff.

Plaintiff, an incarcerated individual, filed his original complaint on September 25, 2024 asserting claims under 42 U.S.C. § 1983 against the defendant Former Employees for alleged injuries arising out of deficient medical care Plaintiff claims to have received from the Former Employees.¹ **Exhibit A** (Complaint part I); *see also* **Exhibit B** (Complaint part II); ECF No. 2284 at 1-2 (Plaintiff’s opposition, identifying the Former Employees as “Released Parties”). Notably, while the complaint does not expressly detail conduct attributed to the Debtor, the complaint does assert that the Debtor is an “interested party” because it was “responsible for prison medical staff” at the facility where Plaintiff is incarcerated. **Exhibit B** at 47, ¶ 199.

¹ Plaintiff’s complaint also named “Corizon” and “YesCare” as “interested parties,” but the complaint does not expressly allege wrongdoing by Corizon or YesCare. *See* **Exhibit A** at 1.

Plaintiff's brief concedes, as it must, that the Plaintiff brought his action against "Released Parties." ECF No. 2284 at 1-2. For purposes of the Plan's injunction, the Plan defines "Released Parties," in relevant part, as:

"Released Parties" means collectively the following, in each case in its capacity as such with each being a "Released Party": (a) the Debtor; . . . each of their respective current and former officers, directors, managers, employees, contractors, agents, attorneys, and other professional advisors, Insiders, and Affiliates; provided, however, that a Non-Released Party shall not be a "Released Party."

ECF No. 2014 at 76. The Plan also defines "Debtor" to mean "Tehum Care Services, Inc. *f/k/a Corizon Health, Inc.*, a Texas corporation" ECF No. 2014 at 67 (emphasis added). By the plain language of the Plan, the Former Employees easily fall within the Plan's definition of a "Released Party" because they are former "employees" and "agents" of the Debtor. *See Exhibit B* at 47, ¶ 199; *see also Exhibit C* (Former Employee's motion to stay filed June 11, 2025, stating "Defendants are former employees of the Debtor"). Thus, Plaintiff's claims are asserted against Released Parties and, accordingly, YesCare's motion should be granted as to Plaintiff.

II. Plaintiffs' Claims in the Plaintiff's Action are Subject to the Channeling Injunction Under the Plan

Plaintiff's opposition does not assert that Plaintiff's claims are not subject to the channeling injunction under the Plan. Nor does Plaintiff assert that he was unaware of YesCare's motion or any relevant dates or deadlines in connection with this bankruptcy proceeding. ECF No. 2284 at 1-2. Notably, Plaintiffs' Action was expressly included in the list of cases in Exhibit A to YesCare's Omnibus Motion to Enjoin, ECF 2160-1, and Plaintiff was served with YesCare's motion on or about May 16, 2025. ECF No. 2160 at 22; ECF No. 2160-1 at 18. As urged by YesCare in the Omnibus Motion, Plaintiff's claims are subject to the Channeling Injunction under the Plan and must be stayed.

Plaintiff is a Holder of Claims against the Debtor because his claims are asserted against the Former Employees, *who are former employees and/or agents of the Debtor*. ECF No. 2284 at 1–2; **Exhibit B** at 47, ¶ 199. Under the Bankruptcy Plan, “Claim” means any claim against the Debtor, as defined in section 101(5) of the Bankruptcy Code. ECF No. 2014 at 65 (Art. I, ¶ 28). For purposes of the Code, “claim” is to be given “the broadest possible definition” to include any possible or potential claim regardless of whether it was asserted. 11 U.S.C. § 101(5)(A); *In re Jobs.com, Inc.*, 283 B.R. 209, 212 (Bankr. N.D. Tex. 2002). Pursuant to the Plan, a “Holder” of a Claim means “any Person or Entity holding a Claim . . .” ECF No. 2014 at 71 (Art. I, ¶ 105). Plaintiffs who could or did assert injuries arising from conduct that could be attributable to the Debtor are Holders of a “PI/WD Claim,” which is defined as:

any unsecured Claim against the Debtor that is attributable to, arises from, is based upon, relates to, or results from an alleged personal injury tort or wrongful death claim within the meaning of 28 U.S.C. § 157(b)(2)(B), including any PI/WD Claim against the Debtor.

Id. at 74 (Art. I, ¶ 142). Holders of PI/WD Claims who did not opt out became a “Consenting PI/WD Claimant.” *Id.* at 67 (Art. I, ¶ 45). Consenting PI/WD Claimants have their claims “channeled” into a PI/WD Trust and are subject to the Channeling Injunction. *Id.* (Art. I, ¶ 45); *Id.* at 95, (Art. IV.D) (“All Channeled PI/WD Trust Claims shall be subject to the Channeling Injunction.”). Pursuant to Art. III.F.6(a)(i), “[e]xcept as provided in the Plan, Holders of Channeled PI/WD Claims shall be enjoined from prosecuting any outstanding . . . Claims against the Released Parties in any forum whatsoever, including any state, federal, or non-U.S. court.” *Id.* at 87.

In the Plaintiff’s Action, Plaintiff asserts claims against the Former Employees for allegedly deficient medical services provided to Plaintiff by the Former Employees, who were only in a position to provide medical services to Plaintiff in the first instance because they were

employees and/or agents of the Debtor. Plaintiff therefore is the Holder of PI/WD “Claims” against the Former Employees for purposes of the Bankruptcy Code, and Plaintiff did not opt out of the Plan. Consequently, Plaintiff cannot avoid the Plan’s Channeling Injunction.

CONCLUSION

For all the reasons stated herein and in YesCare’s Omnibus Motion to Enjoin Plaintiffs From Prosecuting Cases Against Released Parties (Doc. 2160), the Court should grant the Omnibus Motion to Enjoin, including as to Plaintiff Keith Kelly.

Respectfully submitted,

By: /s/ Trevor W. Carolan

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CERTIFICATE OF SERVICE

I do hereby certify that on the 1st day of July, 2025, a true and correct copy of the foregoing was electronically filed with the Clerk of Court and served using the CM/ECF system. In addition, a true and correct copy has been electronically mailed or mailed via first class US mail to the following:

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/s/ Trevor W. Carolan

Exhibit A

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SEP 05 2023

AT BALTIMORE
CLERK, U.S. DISTRICT COURT
DISTRICT OF MARYLAND

BY

DEPUTY

In the United States District Court for
of Maryland (4th Circuit)

Keith Darnell Kelly,
Plaintiff,

VS.

COMPLAINT

RN, Burnice L. Swan;
NP, Janette Clark;
RN, Karen J. Coleman;
ARP Coordinator, Alicia Cartwright;
Warden, Ronald Shane Weber;
Asst. Warden, Bradley O. Butler;
MD, Asresahegn Getachew;
Nurse, Stephine;
Nurse, Peggy (Lewis);
Nurse, Tara;
Nurse, Amy L. Kelley;
Nurse, Davis;
Nurse, Cole;
PharmD, Sheryl C. Nwankwo;
(Interest party, Corizon);
(Interest party, YesCare)

Defendants;

are being sued individually, and
in their official capacities.

I. JURISDICTION & VENUE

1. This is a civil action authorized by 42 U.S.C. Section 1983 to redress the deprivation, under color of state law, of rights secured by the Constitution of the United States. The Court has jurisdiction under 28 U.S.C. Section 1331 and 1343(a)(3). Plaintiff seeks declaratory relief pursuant to 28 U.S.C. Section 2201 and 2202. Plaintiff's claims for injunctive relief are authorized by 28 U.S.C. Section 2283 & 2284 and Rule 65 of the Federal Rules of Civil Procedure.

2. The District of Maryland (4th Circuit) is an appropriate venue under 28 U.S.C. Section 1391(b)(2) because it is where the events giving rise to this claim occurred.

II. PLAINTIFF

3. Plaintiff, KEITH DARNELL KELLY (Doc#: 449315 and SID#: 4050880), is and was at all times mentioned herein a prisoner of the State of Maryland in the care and custody of the Maryland Department of Corrections. He is currently imprisoned at the WESTERN CORRECTIONAL INSTITUTION, 13800 McMullen Highway, SW, CUMBERLAND, MARYLAND 21502.

III. DEFENDANTS

4. Defendant, Janette Clark, is a Nurse Practitioner of the Maryland Department of Public Safety and Correctional Services (DPSCS) who, at all times mentioned in this Complaint, held the rank of "NP" and was assigned to the Dispensary at WCI (Western Correctional Institution) medical ~~department~~ department. Defendant is part of the medical staff at WCI.

5. Defendant, Burnice L. Swan, is a Registered Nurse of the Maryland Department of Public Safety and Correctional Services (DPSCS) who, at all times mentioned in this Complaint, held the rank of "RN" and was assigned to the Dispensary at "WCI".

6. Defendant, Karen J. Coleman, is a Registered Nurse of the Maryland Department of Public Safety and Correctional Services (DPSCS) who, at all times mentioned in this Complaint, held the rank of "RN" and was assigned to the Dispensary at "WCI".

7. Defendant, Asresahegn Getachew, is a Medical Doctor of the Maryland Department of Public Safety and Correctional Services (Henceforth "DPSCS"), who, at all times mentioned in this Complaint, held the

rank of "MD" and was assigned to the Dispensary at "WCI."

8. Defendant, Amy L. Kelley, is — upon information and belief — a Nurse of the Maryland Department of Public Safety and Correctional Services (DPSCS) who, at all times mentioned in this Complaint, held the rank of "Nurse" and was assigned to the Dispensary at "WCI."

9. Defendant, Sheryl C. Nwankwo, is a Pharmaceutical Medical Doctor of Maryland "DPSCS" who, at all times mentioned in this Complaint, held the rank of "PharMD" and was assigned to the Dispensary at "WCI."

10. Defendant, Stephine (last name unknown at this time) is a Nurse of Maryland DPSCS who, at all times mentioned in this Complaint, held the rank of "Nurse" and was assigned to the Dispensary at WCI.

11. Defendant, Peggy (known as "Lewis" also; last name unknown at this time) is a nurse of Maryland DPSCS who, at all times mentioned in this Complaint, held the rank of "Nurse" and was assigned to the Dispensary

at WCI.

12. Defendant, Tara (last name unknown at this time), is a Nurse of Maryland DPSCS who, at all times mentioned in this complaint, held the rank of "Nurse" and was assigned to the Dispensary at WCI.

13. Defendant, Davis (where first name is unknown at this time or could be last name unknown), is a Nurse of Maryland DPSCS who, at all times mentioned in this complaint, held the rank of "Nurse" and was assigned to the Dispensary at WCI.

14. Defendant, Cole (last name or could be first name, unknown at this time), is a Nurse of Maryland DPSCS who, at all times mentioned in this complaint, held the rank of "Nurse" and was assigned to the Dispensary at WCI.

15. Defendant, Alicia Cartwright, is a Administrative Remedy Procedure Coordinator — The ARP Coordinator is a Staff person designated by the Warden to manage the process within the institution — of Maryland DPSCS who, at all times mentioned in this complaint, held the rank of "ARP Coordinator."

16. Defendant, Ronald Shane Weber, is the Warden

of "WCI". He is legally responsible for the operation of WCI and for the health, safety, and welfare of all the inmates in the prison; at all times he's mentioned in this Complaint, he held the rank of "Warden" and was assigned to Western Correctional Institution (WCI).

17. Defendant, Bradley O. Butler, is the Assistance Warden of WCI, and have equal responsibilities as defendant Weber. He is legally responsible for the operation of WCI and for the overall welfare of all the inmates in the prison; at all times mentioned in this Complaint, he held the rank of "Asst. Warden" and was assigned to Western Correctional Institution.

IV. FACTS OF THE CASE

18. At all times relevant to the case, Plaintiff, Keith Darnell Kelly, was being housed at Western Correctional Institution. Plaintiff will take the Court through the steps as to how he came to WCI, and how his hellish ordeal begun.

Plaintiff will also asked this/the Honorable Court to overlook all written mistakes, and if anything is unclear or confusing to bring it to the Plaintiff's attention for clarity. Plaintiff thanks this honorable court in advance.

19. Prison officials are allowed to make reasonable mistakes; However, an official can be held responsible if he or she knew (or should have known) that he or she was acting illegally. (The main Supreme Court cases on this topic are *Saucier v. Katz*, 533 U.S. 194 (2001) and *Harlow v. Fitzgerald*, 457 U.S. 800 (1982)). By the "WCI" prison officials not going beyond the advice of nurses to get Plaintiff medical care for his obvious serious medical needs that they (prison official defendants) had clear knowledge of showed that a reasonable prison official would have known his or her — their — lack of actions ~~was~~ unconstitutional. Prison officials can be held liable even for following the advice of prison medical officials if it is obvious, even to a lay person, that the prisoner is in need of hospitalization or other critical medical care. *McRaven v. Sanders*, 577 F.3d 974 (8th Cir. 2009). Plaintiff suffers from the painful, extremely dangerous; and could be instantly fatal, condition called DVT (Deep Vein Thrombosis): A serious condition that, since being diagnosed on September 8, 2021, has significantly affected his daily activities and produces chronic and serious pain; and due to the prison (WCI) medical staff inadequate medical care, and deliberate indifference to plaintiff's serious medical needs, has advanced the 'serious medical condition to almost untreatable levels. It's a prevalent practiced for the prison medical staff "to band together" and delay medical treatment for plaintiff once he's filed ARPs

on medical; and prison officials are very aware of the unconstitutional actions of medical. Under the Eighth Amendment, the plaintiff is entitled to medical care for "serious medical needs: The Eighth Amendment protects prisoners right to medical care. The Constitution guarantees prisoners that right, even though it does not guarantee medical care to people outside of prison. The Supreme Court explained that this is because "[a]n inmate must rely on prison authorities to treat his medical needs; if the authorities fail to do so, those needs will not be met." *Estelle v. Gamble*, 429 U.S. 97, 103 (1976). Courts usually agree that a prisoner can show a serious medical need if the "failure to treat a prisoner's condition could result in further significant injury or the 'unnecessary and wanton infliction of pain.'" *Estelle*, 429 U.S. at 104; *Jett v. Penner*, 439 F.3d 1091, 1096 (9th Cir. 2006). One court described a serious medical need as "one that has been diagnosed by a physician as mandating treatment or one that is so obvious that even a lay person would easily recognize the necessity for a doctor's attention." *Hill vs. Dekalb Reg'l Youth Det. Ctr.*, 40 F.3d 1176, 1187 (11th Cir. 1994).

20. In the present case plaintiff isn't being provided adequate medical care "guaranteed" by the 8th Amendment. He has been fighting — by way of ARP complaints — for years to get that guaranteed right recognized by the prison medical staff and prison officials. Plaintiff has been rushed back and forth to the ER and prison infirmary because of the inadequate

, lack of and unconstitutional medical care by WCI medical staff. Take plaintiff's most recent encounter with medical: On August the 10th, 2023; plaintiff filed a sick call because of "bloody stool", Right leg/foot started to swell, and turning black. Plaintiff didn't get seen. On August the 11th and 12th — all the way up till August 16, 2023 (NOTE: still filing sick calls, ARPs and still not being seen by medical for serious medical need); Plaintiff has had many Correctional officers called up to medical trying to get someone to come down and see him. The officials explained to medical that they were aware that plaintiff suffer from DVTs, and because of the swelling of his leg/foot, and the discoloration, Plaintiff needed to be seen. Medical on each call, upon information and belief, told the calling official that someone would be down to examine plaintiff. No one from the medical department came down and examined plaintiff. Plaintiff leg is beyond twice its size — foot included — and the pain is unbearable. Just as in the beginning, when nurse Burnice blocked all medical care because plaintiff filed ARPs on medical. see complaint; Plaintiff can no longer put pressure on his leg/foot [so] therefore walking is not an option and because of medical failure to provide medical care for plaintiff's left knee that has been swollen since December of 2022 even "hopping" on one leg is out of the question.

21. On the date of August 11, 2021, while being housed at NORTH BRANCH CORRECTIONAL INSTITUTION (Henchforth - "NBCI"), Plaintiff, Keith Darnell Kelly, was informed by Correctional Officer Ms. Bilinger that he was being shipped to WESTERN CORRECTIONAL INSTITUTION (Henchforth - "WCI") on PROTECTIVE CUSTODY (Henchforth - "PC").
22. On August 12, 2021; Plaintiff Kelly, along with another inmate, walked — by way of Correctional Officer's escort — from NBCI to WCI to be placed on PC. Plaintiff Kelly was placed inside WCI's Housing Unit 4 (four) — Cell # 24 — on 14 days quarantine, due to the Covid-19 epidemic, (NOTE: Upon arriving at WCI Plaintiff was seen by a nurse, a black male, whom questioned him about any medical issues: outside of having bloody stool and epilepsy; Plaintiff was, at that moment, fine).
23. Then on August 14, 2021, inside the same Housing Unit, Plaintiff was moved from Cell # C-24 to #C-4, because Officers needed one side of the tier to house an inmate who was diagnosed with Covid-19.
24. Following that Scare, Plaintiff was tested on August 19, 2021 for Covid-19 with negative results; but on August 21, 2021 Plaintiff was bitten by three spiders — two bites in the face — right side — and one on the left arm (shoulder area — which was discovered later by the Plaintiff); When the Med Nurse came on the early

morning of August 21, 2021; Plaintiff informed, and showed, the Med Nurse the spider bites, and was informed to put in a sick call to be seen by medical. Plaintiff then got a sick call request from the Unit-4C-tier officer and filled it out, and had the, same officer, placed the sick call slip (request) inside the Unit's sick call [mail] box. On the same day, evening meds time, Plaintiff informed the afternoon Med Nurse about the spider bites and showed her the bites. That nurse also told Plaintiff to put in a sick call, and again Plaintiff complied; and followed all the steps as previously mentioned: by this time Plaintiff's right foot was starting to show signs of swelling.

25. After repeatedly filing sick calls, since August 21, 2021, Plaintiff, still haven't been seen by medical, right foot and right leg was swollen twice the normal size. Plaintiff, whom family was now involved calling up to the prison (WCI) daily — trying to get Plaintiff medical assistance — Came off of quarantine and was escorted to Housing Unit 5 (Five) B-tier — it's now August 26, 2021: Plaintiff still has not been seen by medical — Which is the Protective Custody tier; was assigned to Cell #15, but due to bottom bunk pass issues; Plaintiff could not reside in that cell because the occupant, like Plaintiff, had medical issues that prevented either from being placed on the top bunk. After close to like 35 minutes — officers kept encountering inmates who didn't want a cellmate or had bottom

[medical] papers (passes). Sgt. (Sergeant) Bounds — who was the Housing Unit Sergeant on 8-26-21, along with the Wing Officer (a Correctional officer assigned to a unit tier) Ms. Bernnman; decided to place Plaintiff Kelly, inside, what is known as a medical cell, Cell # B-1. Upon settling into the "single bunk" cell, Plaintiff exited the cell to take a shower, and once that was completed Plaintiff, informed the Wing Officer (henceforth "Tier Officer") Ms. Bernnman, [spelling may not be correct: "Bernnman or Bernnman are the same person"], of being bitten by spiders inside Housing Unit 4 (four); not receiving his Catalog orders; not having any "clothing" — except the ones he was wearing, because NBCI destroyed all of Plaintiff's property — and Plaintiff **only** had long pants, Jeans, to wear. Plaintiff, pointed out the spider bites, and then showed Tier Officer Bernnman his right swollen foot. Again he was told to put in a sick call. Plaintiff's received the appropriate forms — Request to Staff and Sick calls — from the authorized inmate tier rep; and filed a request to the property officer, and three sick calls to medical: 1) Spider bites, 2) bloody stool, and 3) Swollen right leg/foot. Tier Officer Bernnman did call medical and report on the Swollen foot/leg.

26. On August 29, 2021; Plaintiff called his brother at 12:33pm and, again, told him about the pains he was in due to his, still getting bigger, Swollen right

leg and foot. Plaintiff then asked him to call to the prison (WCI) and find out why he'd not been seen yet. On this same day being spoken on; Plaintiff again showed the tier officer his swollen foot and he'd even shown it to the medication nurses who brought around, including his, inmates meds. Yet on this day, August 29, 2021, due to a situation on another tier the unit went on lock down; and Plaintiff heard nothing else about his medical complaint. Plaintiff did though filed another sick call date 8-29-21. (On 8-29-21 Plaintiff, during Officers bar check, gave the 2nd shift tier officer his personal/legal mail and sick calls to put in their assigned [mail] boxes).

27. On August 29, 2021 Med nurse Davis, after I spoke with her and showed her my foot and leg [by rolling up my pant leg]; at 6:10 pm got a nurse to come down and see my leg/foot. I, Plaintiff, was on the toilet at the time, but cutted it short so the "unknown" nurse could see my foot/leg. The unknown nurse said, She'll put Plaintiff in to be seen by a sick call nurse on August 30, 2021.

28. After not being seen on August 30, 2021; on the following day, August 31, 2021 — (NOTE: Plaintiff has been filing ARPs concerning the issues of not being seen for: 1) Spider bites, 2) bloody stool and 3) swollen leg/foot.); Plaintiff, with the help and assistance of other inmates was "helped" out of his assigned cell (#18) to again call his family to get them to call up here; by now Plaintiff's leg/foot is starting

to turn black in some areas with redness. The pains were unbearable. During the call, Plaintiff's brother called to the prison (WCI) and was told by someone in medical — it could have been an Officer or nurse — that Plaintiff would be seen by medical on September 1, 2021. Plaintiff was helped back to his cell by other inmates.

29. On August 31, 2021; now hopping on one [left] leg, Plaintiff saw "three nurses in the Lobby area" outside of the tier and "again" showed them his foot/leg — close to tears because of the pains — and begged to get seen by a doctor. Yet, once more, Plaintiff's plea fell on deaf ears. (Plaintiff also filed complaints concerning this issues) with the Wardens and a Ms. Brenda Reese). The Nurses did come down on August 31, 2021 to conduct sick calls, and still Plaintiff was not seen. Plaintiff had the tier Officer to speak to the Sick call nurses on /about him, and was told, "The nurses said you'll be seen on tomorrow."

30. September 1, 2021; during lunch time — approx. 11:20 AM — Plaintiff, seated on his bunk writing out an ARP (Administrative Remedy Procedure) grievance, when tier officer Bernnman and nurse Bernice came to his cell (5B#1) and the door opened; Plaintiff told the nurse (Bernice), that he was just about to file more Arps because he had not been seen by a sick call nurse or a doctor, and told the Bernice that he couldn't walk. Nurse Bernice

, without any physical examination — Please keep in mind that plaintiff is fully dressed and wearing long pants (Jeans — his only item of clothing) — Told Officer of the tier, Ms. Bernnaman, to close the door; she also stated that she was done since I'm (Plaintiff) was filing ARPs. Plaintiff, once the door closed, asked the nurse why wasn't she going to see him because he'd filed ARPs. Nurse Bernice ignored Plaintiff and exited the tier. Plaintiff then asked tier officer Bernnaman can the nurse deny him medical attention or treatment for filing ARPs. She just shrugged her shoulders and said they, upon information and belief "they" meant "officers", had no say or control over what medical do. (NOTE: The tier officer is the person who told Plaintiff that the nurse who refused to examine him name was "Bernice." That's where, at that time, how Plaintiff knew her name.); Plaintiff also asked tier officer Bernnaman to file a report about the unconstitutional actions of nurse Bernice. Ms. Bernnaman said no, and refused to sign the ARP, I'd written, after the encounter. Later on, same day of September 1, 2021 another Officer came onto the tier and Plaintiff showed her his leg/foot — by way of rolling up his pants leg — and after explaining things to her, that Officer signed the ARP — see attachments. Prior to this mistreatment, nurses told Plaintiff that no one in medical cared about him filing ARPs or his family calling up to

the prison, that's only delaying things more to "show" Plaintiff that they weren't afraid of no ARPs or phone calls from family or him. (on 9-1-21; WCI was on lock down)

31. And to take a step back to August 29, 2021; on that day that unknown nurse said she was the "Duty nurse" and she did "look" at my leg/foot and acknowledged that it was twice the normal size, and she questioned me about my activities to rule out a injury of some sort from playing basketball, working out or just jogging — amongst other things. I, Plaintiff, explained ~~•~~ he'd been involved in none of those things, and explained the spider bites — till this day was never treated —, and the Duty nurse (unknown nurse) said she was going to put in to have Plaintiff's leg/foot X-rayed, and checked for diabetes because of Plaintiff's family history of diabetics. Plaintiff then explained to the Duty nurse that his brother think that it could be "gout" (NOTE: Reason being, because he suffers from that painful disorder); the Duty nurse disagreed, but still said she'll put in for a test for gout as well. Plaintiff asked the duty nurse can he at least have a "Cane" or some "Crutches" to able him to walk since he'd been reduced to "hopping" around on one leg. The Duty nurse said in-order for plaintiff to be given a cane or crutches he'd have to see a "provider" and that person would decided if such things were needed. Nothing that duty nurse explained was done. Yet, even inside NBCI Inmate Handbook, page 62,

its stated: "The Dispensary at WCI is staffed with a Registered Nurse on a 24 hours basis. There is also a medical doctor on-call around the clock". And even though the nurse's assumption about diabetes was wrong; that in itself "still" should have prompted her to call the "medical doctor" to examined Plaintiff.

Tillery v. Owens, 719 F. Supp. 1256, 1305-06 (W.D. Pa 1989) (lack of proper administration of medical services and "general disorganization" of nursing services contributed to an Eighth Amendment violation), *aff'd*, 907 F. 2d 418 (3d Cir. 1990); *Bass by Lewis v. Wallenstein*, 769 F. 2d 1173, 1184-85 (7th Cir. 1985) (known deficiencies in sick call system supported a finding of deliberate indifference); *Morales Feliciano v. Calderon Sierra*, 300 F. Supp. 2d 321, 341 (D.P.R. 2004) ("Failing to provide a sick call system that ensures access to care and that is capable of effectively handling emergencies" implicates Eighth Amendment rights). And with every encounter that Plaintiff had with someone from, or not from, the WCI medical department he explained the extreme pains he was in; and still — even with medical staff seeing the discomfort on Plaintiff's face, and physical movements — he was still denied medical treatment.

32. On September 2, 2021 Plaintiff filed an emergency Civil suit on medical and sent a notice to the State of Maryland Treasurers Office. See attachment. At the

time of filing it Plaintiff still thought that what was going on with his leg/foot was related to the untreated Spider bites. Anyhow, the duty nurse's promises of having an X-ray, and other herein testes done did not happened. On this same day of September 2, 2021; Plaintiff wrote the following authorities about his medical enemergency: 1) Housing Unit Case Manager for 5B-tier; 2) The Wardens; 3) Chief of Sercurity; 4) ARP Coordinator, Alicia Cartwright to come down to the unit to take "photographs" of his leg/foot; and Nurse Practitioner, Janette Clark.

According to the WCI's Inmate Handbook "a physician, physician's assistant, nurse practitioner and/or nurse are available on a daily basis for managing emergencies."

33. On 9-2-21 (September 2, 2021), Plaintiff, locked inside his assigned cell - 5B1; Saw when Housing Unit 5 (five) Lieutenant Mason entered the tier, and called him over to his assigned cell. Plaintiff told the Lieutenant that he was in serious pains and needed to see a doctor. Plaintiff, while explaining to Lt. Mason his serious medical need placed his foot on the feed up slot so the Lieutenant could see the swollen limbs. The Lieutenant assured Plaintiff that he'd get someone down to see him from medical. Later, instead of someone from medical coming to see Plaintiff, more injustice came.

34. The 2nd Shift, on September 2, 2021; Came on and told Plaintiff he was being ^{removed} removed off of the

protective custody tier to Housing Unit 5 (five) C-tier Cell #16 on Administrative Segregation. Plaintiff was told to stand up, and was handcuffed behind his back and told to "hop" onto C-tier from B-tier. Plaintiff, who been assaulted by officers before, see ELH-20-2531, knew not to do or say anything that would lead to another beat down by Correctional officers. Therefore the Plaintiff simply said he could "hop" with handcuffs on. That statement caused the group of "four" Correctional Officers to look down at Plaintiff right foot, and pulled up his right pants leg. The order to "hop" changed to one of the officer radioing for a wheelchair to be use to take Plaintiff to his new tier and Cell assignment. Plaintiff was then placed inside of the Cell, #16, on C-tier; the cell was not clean and the sink was clogged up with human waste matters. see attachment. Upon information and belief the move was done in retaliation because of the ARPs Plaintiff filed on the medical staff and other prison officials. (NOTE: Administrative Segregation is just another fancy word, or words, for "Lock-up.") Plaintiff was removed from "protective custody general population and placed, without any hearing, on "Regular" population Administrative Segregation. That move made it close to no phone calls Plaintiff could make to his family and because of the move Plaintiff could

no longer do video visits with his child. Plaintiff was now locked inside a cell 23 hours a day and given a 15 minute shower three days out of a week, and still no medical treatment for his painful leg/foot. The Plaintiff, again, filed ARPs, Request to Staffs, Sick calls and Complaints.

KK 35. On September 3, 2021; the midnight Shift does the administrative Segregation inmates showers. ~~After~~ After seeing how swollen and discolored Plaintiff's leg/foot was; Wing officers used the wheel Chair to transport Plaintiff to and from the shower(s) that were equiped with bars, a seat and shower head for inmates with disabilities. Sink still clogged up, inside cell, with human waste matters. When the first shift came on — still 9-3-21 — Plaintiff showed tier Officer Hoover his right leg/foot and the clogged up sink. Plaintiff actually shed tears while explaining his serious medical need to Officer Hoover — tears came moreso from the pains than emotional distress — who said he'll notify Sgt. Rounds of the /about the situation along with medical. Upon information and belief nurse Bernice told the Officers I was faking, that all I had was a sprain ankle, and to deal with Plaintiff as "they" (officers) see fit. *Boswell v. Sherburne County*, 849 F.2d 1117, 1123 (10th Cir. 1988) (deliberate indifference

Claim was supported by evidence that "inadequately trained jailers were directed to use their own judgment about the seriousness of prisoner's medical needs"). When Sgt. Rounds did come to Plaintiff's cell door, he informed Plaintiff that he'd read Plaintiff ARPs and didn't like the fact that "his" name were in them, and he said that medical told him there was nothing wrong with Plaintiff, and he had things to do. As Sgt. Rounds began to walk away, Plaintiff—in tears now—again showed him his leg/foot and asked how can it be false. Sgt. Rounds, without any further words, walked away. Plaintiff then, again, wrote a sick call to NP, J. Clark and even explained his encounter with "Hoover" and "Rounds", and the actions of nurse Bernice to stop Plaintiff from receiving medical treatment or see a doctor. *Mandel v. Doe*, 888 F.2d 783-90 (11th Cir. 1989) (damages awarded where physician's assistant failed to diagnose a broken hip, refused to order an X-ray, and prevented the prisoner from seeing a doctor). Then a male nurse, a black man whom Plaintiff knew from NBCI medical staff; Jacobs came around with a female nurse passing out "medical" blister packs. Plaintiff called them over and showed them his leg/foot and explained the hellish turmoil he was going through. The female nurse, upon information and belief name was "Coco"; was truly surprise that no one from the medical

department hadn't seen Plaintiff yet. By this time now, the Plaintiff's leg/foot was swollen to disfigurement - Picture a rubber glove blown up with an elephant leg connected to it. The female nurse then told Plaintiff to keep his leg elevated, and that she would see whom the duty nurse was on call because NP, Janette Clark was out sick. I, Plaintiff, informed the two nurses that if it was nurse Bernice on call, then she won't see and will not allow no one else from medical to see me, Plaintiff; Plaintiff then explained the September 1, 2021 encounter with nurse Bernice. The female nurse said that should not have stopped her from treating Plaintiff, anything, they both said, that should have made her want to treat Plaintiff. The two nurses said they were going to report it, and by this time the swelling had reached Plaintiff's private area. Officer Hoover was with the two nurses, and Plaintiff asked him, as the nurses began to walk away, why didn't he call medical like he said he would. Officer Hoover just walked off with a "I got a job to do" comment.

36. September 4, 2021; the sink is still not fixed and because of that, Plaintiff is forced to "fish" for drinking water from the nearby cell. Plaintiff could not sleep and the pains were unbearable. A nurse named Amy came around doing the morning rounds, and Plaintiff stopped her and showed her his leg/foot and explained the medical ordeals he was dealing with. Nurse Amy

said, "Bullshit" and that it was her first time hearing about Plaintiff's serious medical needs. Plaintiff told Amy that he had been going through the ordeal since August and that 3rd shift officers had been wheel chairing him back and forth from the showers since being placed on C-tier, and that Plaintiff had spoken to day shift and night shift officers about calling medical. Nurse Amy said no one told her anything and that she would look into it and pull Plaintiff out. She wrote down Plaintiff's name and numbers and left. Plaintiff then got on the "roll phone" and called his brother and explained how the swelling had progressed and the mind numbing pains he was in. While on the with Plaintiff, Plaintiff's brother used his work phone to call the prison (WCI). He got a officer on the line who — lied — informed him that a nurse came to see Plaintiff and that Plaintiff became highly Combative so the nurse wouldn't see him. When Plaintiff's brother questioned him as to why wasn't a disciplinary report written if that was true, the officer hung up on him. Plaintiff's brother then called back to the prison and requested to speak with someone inside the medical department; again he got transferred to a officer who wouldn't identify himself, and he asked why wasn't Plaintiff being seen by a different nurse or a doctor. The officer reply was that Plaintiff didn't inform the tier officer about any illness, didn't file any sick calls; and

that Plaintiff, if Plaintiff, use the proper channels then he'd get seen, and again hung up on Plaintiff's brother. Plaintiff told his brother to call back, and don't stop until he's in touch with the wardens because Plaintiff was fearful he was going to lose his right leg. As soon as Plaintiff got off the phone he gave the tier officer a filled out sick call, showed him his leg/foot and requested for him to call medical. Upon information and belief the tier officer did not call medical. During evening med line, Nurse Peggy brought Plaintiff his meds, and he showed her his leg/foot and all she said was "Someone was suppose to had seen Plaintiff about that already"; and like all the other med line nurses, she to said ~~she~~ she'll pass it along to someone in medical.

37. Backing up for a second, also on September 3, 2021; Plaintiff showed Commissary/property room Officer Ms. Johnson his leg/foot and explained things to her. She said that it is a shame to say it but that medical at WCI sucked, and just keep the leg elevated and continue to flood medical with sick calls. Before moving on, she said, make the leg is elevated higher than the heart.

38. Returning back to September 4, 2021; during the 10:30 pm count, Plaintiff spoke with Sgt. Cee and showed her his leg/foot, and in tears told her he was in serious pains and needed to go to medical. She acknowledged it was badly swollen, and asked did Plaintiff put in a

sick call. Plaintiff explained to her, that to his knowledge he'd put in over 40 sick calls about his leg/foot. Sgt. Cee said she was going to call medical and explained the sight she'd seen, which wasn't pretty. About an hour or so later Sgt. Cee came back and said no one was in medical [that] night, and to just put in another sick call. She said she called and no one in medical picked up the phone. Plaintiff will point out that Sgt. Cee was untruthful. WCI has an "on-site" infirmary that housed inmates and nurses are inside medical 24 hours a day. The WCI Inmate Handbook states: "Contract Health Care staff are employed at the institution 24 hours per day... A physician, physician's assistant, nurse practitioner, and/or nurse are available on a daily basis for managing emergencies... In emergency situations, the housing unit officer will call the Dispensary to make arrangements for the inmate to be seen. Non-emergent requests will be referred back to the sick call process... Provider sick call (physician, physician's assistant, or nurse practitioner) is held 5 days a week. Nurse sick call is available 7 days a week..." page 54 of the WCI Inmate Handbook, which also stated that "The Dispensary at WCI is staffed with a Registered Nurse on a 24 hour basis. There is also a medical doctor on call around the clock... No inmate will be denied medical treatment..." Still Plaintiff was not seen by medical.

39. On September 5, 2021; Nurse Amy came around

again and Plaintiff, still in serious agonizing pains, asked her about being seen by a doctor or the nurse practitioner. She said Plaintiff was put in for X-rays; and Plaintiff told her that a duty nurse said that before and no X-rays were done. Nurse Amy said that's what "they" said and kept it moving. Later on that very same day, 9-5-21, an inmate inside Cell number "5C-20" said he fell off the top bunk and hurt his leg. The tier officer King called for a wheelchair when the inmate said he couldn't walk; medical was called and that inmate was taken to ^{be} seen ^{by} medical. While gone to be seen to medical; Blood spill inmates were called in to clean up "paper-cut" blood spots on that inmate's sheets; he was provided new sheets and given pain meds. Plaintiff then asked tier officer King how is it an inmate with no visible leg damage or swelling was able to get seen by medical and had Blood spill inmate workers cleaned his cell; whereas Plaintiff who has a "clear visible" serious medical situation(s), and clearly in pain(s) can't get medical to see him. Officer King said Plaintiff pissed off the wrong nurse; upon information and belief he was referring to nurse Bernice.

"The Division of Correction provides equal access to all programs, services, and activities, without regard to race, religion, national origin, handicap, or political beliefs..." page 5 of WCI Inmate Handbook. Plaintiff's serious medical need was ignored; In 1976, the Court explained in

Estelle v. Gamble that "deliberate indifference" — purposely ignoring the "serious medical needs" of prisoners — amounts to "cruel and unusual punishment," forbidden by the Eighth Amendment. *Estelle v. Gamble*, 429 U.S. 97, 104, 97 S.Ct. 285, 291, 50 L.Ed. 2d 251, 260 (1976) (Citing *Bregg v. Georgia*, 428 U.S. 153, 173, 96 S.Ct. 2909, 2925, 49 L.Ed. 2d 859, 874 (1976)). Courts define "serious medical need" as "one that has been diagnosed by a physician as mandating treatment or one that is so obvious that even a lay person would easily recognize the necessity of a doctor's attention. See, *Carnell v. Grimm*, 872 F. Supp. 746, 755 (D. Haw. 1994) ("A 'serious' medical need exists if the failure to treat the need could result in further significant injury or 'unnecessary and wanton infliction of pain.'") (quoting *Estelle v. Gamble* 429 U.S. 97, 104, 97 S.Ct. 285, 291, 50 L.Ed. 2d 251, 260 (1976))), appeal dismissed in part, *aff'd* in part, 74 F.3d 977 (9th Cir. 1996). *Brock vs. Wright*, 315 F.3d 158, 162 (2d Cir. 2003). The Second Circuit defined a serious medical need as "a condition of urgency, one that may produce death, degeneration, or extreme pain." *Hathaway v. Coughlin*, 37 F.3d 63, 66 (2d Cir. 1994) (quoting *Nance v. Kelly*, 912 F.2d 605, 607 (2d Cir. 1990) (Pratt, J. dissenting)). However, in *Brock*, the Court specifically rejected the notion that "only 'extreme pain' or degenerative condition" meets the legal standard, since

"the Eighth Amendment forbids not only deprivations of medical care that produce physical torture and lingering death, but also less serious denials which cause or perpetuate pain." Brock v. Wright, 315 F.3d 158, 163 (2d Cir. 2003). The laws are clear on what is forbidden; the Eighth Amendment of the Constitution protects prisoners from "Cruel and unusual punishment," see, U.S. Const. amend. VIII. The U.S. Supreme Court has decided that failing to provide medical care to prisoners violates this amendment, Estelle v. Gamble, 429 U.S. 97, 104-05, 97 S.Ct. 285, 50 L. Ed. 2d 251, 260 (1976) ("We therefore conclude that deliberate indifference to serious medical needs of prisoners constitutes the 'unnecessary and wanton infliction of pain' proscribed by the Eighth Amendment. This is true whether the indifference is manifested by prison doctors in their response to the prisoner's needs or by prison guards in intentionally denying or delaying access to medical care or intentionally interfering with the treatment once prescribed"). Also, on September 5, 2021, when even meds was brought to Plaintiff, by Nurse Peggy, he "again" asked to see a doctor, and her reply was 'that she heard "them" talking about Plaintiff's leg/foot in medical that day, so she guess he would be seen.' Still Plaintiff saw no one, and again was left suffering in extreme pain.

40. On September 6, 2021; Plaintiff was taken to the

shower, in a wheelchair, by officer "Mahoney (spelling maybe wrong)" — a red head with tats on her arm — and she was surprised that Plaintiff leg/foot had gotten bigger, and commented, that she couldn't believe it possible for Plaintiff's leg/foot could have gotten bigger than before. Plaintiff informed her that medical was refusing to see him because nurse Bernice said there was nothing wrong with him. ("...the indifference is manifested by...intentionally denying or delaying access to medical care...") *Estelle v. Gamble*, (1976). Still, on 9-6-21, at even meds time; Nurse James (a nurse Plaintiff knew from "NBCI") brought him his meds, and Plaintiff showed him his foot/leg and explained the pain he was in and his need to see a doctor. Plaintiff explained that no one inside medical would see him or give him anything for his serious - mind-blowing pains. Nurse James promised to let someone know of the situation in medical, and to explained them about "what he saw/seen"; (speaking about Plaintiff's leg/foot). Still no one from medical came to see Plaintiff.

41. On September 7, 2021; Plaintiff had to go to Prince George's County Circuit Courthouse for a post-conviction hearing. Plaintiff was wheel chaired up front, by an officer, to the holding cell. Once inside the holding cell, seated — Officer had to returned the "unit" wheel chair

back to Housing Unit 5 (five). The transport Officers entered the cell, and asked Plaintiff what was up with the wheel Chair, because they had checked with medical and nurse Bernice said there was nothing wrong with Plaintiff, the he (plaintiff) was faking and that he (plaintiff) could walk. Plaintiff, while sitting, pulled down his pants and showed both of the transport officers his legs so they could compare the two. Both, Officer acknowledged the swollen leg/foot — Plaintiff could not wear a shoe on right foot — and said that they didn't understand with puzzled faces. So, one of the officers left out to go get a nurse from medical, while the other stayed behind. Once the Officer, #1, returned he was not alone; nurse Bernice came into the holding cell with him and the other Officer, #2, followed. Officer #1, pointed to Plaintiff's leg/foot and told nurse Bernice that it was "really" swollen bad. Officer #2 nodded in agreement. (see ARP attachments). Nurse Bernice still refused to acknowledge what was plainly in front of her eyes, and told the Officer that Plaintiff did not need a wheel Chair cause he could walk and she'd caught him dancing in his cell. Plaintiff told them, in front of nurse Bernice, that she was a liar, and if Plaintiff was faking then take photos of his leg/foot. Nurse Bernice said he (plaintiff) was faking and wasn't getting a wheel Chair and that

she hoped Plaintiff's leg "rot" off, and exited the holding cell. Plaintiff can't remember exactly what he said after her, but, "fuck you lying bitch," sounds right. The transport Officers told Plaintiff to cool it, and watch his mouth. Plaintiff complied. Officer #2, said that they couldn't override medical so either walk or forfeit the court trip. I told the Officers there was no way I could walk or put pressure on that leg/foot. Then the Officer, #1, asked Plaintiff to "hop" on one leg to the transport van. Again Plaintiff complied and hopped on his leg — left one — to the van while wearing waist and handcuffs chains. Once at the van, another officer — whom Plaintiff will labeled as #3 — told the two officers with Plaintiff that Prince George's County Courthouse was huge with long hallways, and that it was going to be impossible for Plaintiff to hop down them. Officer #3, questioned why the two didn't just get a wheel chair from medical. That's when Officer #1 said forget this and went back inside to go to medical to convince nurse Bernice to allow them to have a wheelchair to transport Plaintiff in. After, like ten minutes, Officer #1 returned with a wheelchair.

42. Once arriving at P.G. County Courthouse for the post hearing; Plaintiff was wheeled into the Courthouse, and once in front of the Post Judge, Dorothy M. Engel, he requested for her to acknowledge his swollen leg/foot and

explained that WCI medical department was refusing to treat his "obvious" serious medical need. The Post not only acknowledged it, she made it part of the hearing records — the hearing was recorded orally and visible — and by Plaintiff being in so much pain he couldn't think right at the post hearing and therefore requested a postponement and a post lawyer.

43. Now, on 9-7-21 still, back at the Prison (WCI) Plaintiff was wheeled back to his assigned unit and cell. The first thing Plaintiff noticed was that while away "someone" had come in fixed the sink and unclogged it. Plaintiff filled out four more sick calls — and turned them in — and then filed a ARP on nurse Bernice for her unconstitutional and unprofessional actions/behavior in the holding cell before he went to court. See attachments. Again Plaintiff requested to see a doctor, and again he saw no one. ("A 'serious' medical need exists if the failure to treat the need could result in further significant injury or 'unnecessary and wanton infliction of pain.'" (quoting *Estelle v. Gamble* (1976))).

44. September 8, 2021; Plaintiff — on 3rd shift — was again taken to the shower by Officer Mahoney, who after seeing the increased of swelling to Plaintiff leg didn't even bothered with handcuffing Plaintiff to go to the shower. (NOTE: Once Plaintiff filed ARPs on nurse Bernice on 9-7-21, after court trip, he was served papers saying the

reason he was on Administrative Segregation is "Review for PC Placement"; which did not make sense. Plaintiff came from NBCI on PC; and was on PC until he filed ARPs on medical and Officers.) Plaintiff filed a ARP on this as well, see attachments, but it was barred because inmates can't file ARPs on classification—even if they are working with medical and officers to make Plaintiff's life a living hell; Classification abuses its power on the regular, of course this based upon information and belief. Plaintiff again spoke with Property officer Johnson, and informed her that he still have not been seen by medical. She said WCI had the worse medical system she'd seen. She also advised Plaintiff to keep putting in sick calls, write ARPs and have his family call the prison; and to also keep that leg elevated. Plaintiff explained he was doing all of the above, and gave her a sick call to put inside the medical box for him on her way off the tier. Plaintiff in tears and pain begged the tier Officer to call medical.

45. September 8, 2021; Finally, Plaintiff was wheeled out to see a black male nurse for sick call. The male nurse, whom plaintiff learned later was... (Plaintiff is still unsure about his name, so for now will leave the name he was told out); the black male nurse took one look at Plaintiff's leg/foot and asked the Officer who was pushing Plaintiff, Can Plaintiff be brought up

to the dispensary to see the doctor (Joginder Mehta, M.D.).

kk The reason for his request was because of the swelling, discoloration, and the "obivious" pain Plaintiff was in. The black male nurse then asked Plaintiff why did "he" (Plaintiff) waited so long to contact medical. Plaintiff then explained the whole ordeal he'd been going through to get seen by medical, and that he'd put in over "40" sick calls; and how nurse Bernice kept blocking him from being seen by any other nurses, or doctor. Plaintiff explained how nurse Bernice lied about seeing him "dancing in his cell", even he, the black male nurse, knew that Plaintiff could not have been walking on that leg, so "her" seeing Plaintiff dancing was too far-fetch to even considered. The black male nurse went on to say that it looked like blood clots, which is a very serious and painful condition and if not treated could lead to death. He was surprised at how long Plaintiff was dealing with the could be fatal illness without treatment. He even went so far as to say how officers was always calling for medical to come down to see inmates who were "faking", couldn't understand why none called medical about my leg/foot. Plaintiff told him that nurse Bernice kept telling nurses in medical and officers that plaintiff was faking "cause nothing was wrong with plaintiff's leg." He said anyone who had seen my leg/foot would have known that "faking" it was untrue. He then asked Officer Bernnaman, she was the pusher

of the wheel chair Plaintiff was in, could she bring Plaintiff up immediately to see the doctor. Officer Bernaman said "yes". Plaintiff was wheeled back to his assigned cell while she went to inform the Unit Sergeant of the nurse request. Plaintiff sitting in agony for hours wasn't taken up to medical, as the nurse requested. Then around three pm (3:00 pm) the doctor, along with the same black nurse, had Plaintiff brought back to the sick call room, inside the Housing Unit where Plaintiff resided; doctor Mehta took one look at Plaintiff's leg/foot and picked up the phone getting clearance to have Plaintiff sent to the ER (outside Hospital) immediately. He then asked Plaintiff why he waited so long to request for medical. Once more, Plaintiff went through the details and ended with how nurse Bernice blocked him from getting medical attention and assistance because he'd filed ARPs on medical; doctor Mehta kept asking Plaintiff medical questions, while he spoke in the phone, but Plaintiff's ears were ringing with the words, "You can die or you could die" incessantly. Plaintiff still, at that time, couldn't understand what "blood clots" were and how could it kill him? (The Second Circuit defined a serious medical need as "a condition of urgency, one that may produce death, degeneration, or extreme pain." *Hathaway v. Coughlin* (2d Cir. 1994) (quoting *Nance v. Kelly* (2d Cir. 1990)). Even doctor Mehta agreed that had nurse

Bernice seen Plaintiff's leg/foot at any time she should have called him. Plaintiff was then transported to medical to get ready to go to the ER — which took close to two hours; which was unnecessary. Plaintiff, who the doctor instructed should be rushed to the hospital by prison guards was again held up at the front gate until a Officer arrived some ten minutes later with "PC removal papers" from Classification for Plaintiff to sign — again, which was unnecessary. Plaintiff's life is on the line; has been for weeks, and the "rush" to the ER was turned into a snail walk. (...deliberate indifference to serious medical needs of prisoners constitutes the 'unnecessary and wanton infliction of pain' proscribed by the Eighth Amendment. This is true whether the indifference is manifested by prison doctors in their response to the prisoner's needs or by prison guards in intentionally denying or delaying access to medical care or intentionally interfering with the treatment once prescribed.") *Estelle v. Gamble* (1976). Plaintiff in pain and fear of dying was forced to wait on a Officer to serve papers that could have waited until Plaintiff's return from the ER.

46. Upon arriving at the hospital Plaintiff learned that he had DVTs (Deep vein Thrombosis), and that delayed treatment had advanced the problem (illness).

Doctors were visibly shocked when they learned how long Plaintiff had that serious medical need, and equally shocked that Plaintiff was able to survive it without treatment. The doctors gave Plaintiff something for the pain; and after all the tests they ran to confirmed that it was DVTs; the doctor at the ER did not want to return Plaintiff back to the prison (WCI) until he was sure that medical could follow his treatment plans. The ER doctor told Plaintiff this, and said he called the prison's medical department three times to make sure their infirmary was properly equip to deal with Plaintiff's medical care — serious medical care and needs. The ER doctor said "nurse Bernice" told him they could. Plaintiff told the ER doctor that nurse Bernice was the same nurse who wouldn't examine him or let him see a doctor. The doctor said if Plaintiff have any problems he'd instructed the prison medical staff to not waste any time sending Plaintiff back to the ER. That placed Plaintiff's mind at ease a little bit, but not his fears because plaintiff knew that it was, still is, a prevalent practiced to delay medical treatment at WCI. Once returning back to WCI Plaintiff saw nurse Bernice, and said nothing. But, she said that, to another nurse about Plaintiff, when she asked her what was wrong with plaintiff; that apparently he

was dying from DVTs, and then laughed. She then tried to get Plaintiff to sign a "Release of Responsibility form" with the name "Corizon" on it. Plaintiff did not sign the form, and a old white male guard said to Plaintiff "that he guessed Plaintiff didn't want to get treated them." Plaintiff asked how is Signing something releasing nurses from their responsibilities has anything to do with being treated, as a doctor ordered, for DVTs.

47. Plaintiff stayed in the prison infirmary until September 15, 2021; while in the infirmary Plaintiff was assigned a set of Crutches to help him walk, and ~~kr~~ Ilovenox and Coumadin ~~to~~ to treat the DVTs, but nothing for the pains. Plaintiff was getting finger sticks to keep track of his INR daily. On 9-18-21 (September 18, 2021) Out of nowhere medical ceased with the finger sticks for Plaintiff's INR — Plaintiff filed an ARP on it — and Officer King called medical and spoke to nurse Amy who told him to tell Plaintiff that Nurse Karen said Plaintiff no longer needed daily finger sticks. Yet, that's not what the doctor said during that time. The finger stick was suppose to remain daily until Plaintiff follow up. And this was the start of medical not following doctors orders.

48. September 21, 2021; those "X-rays" that the duty nurse and Amy claimed Plaintiff was put in

for — before hospital trip — was done by MS Jodi Rainy. Had Plaintiff been put on hold until X-rays were done; Plaintiff would have been dead. WCI medical staff had no ~~other~~ intentions of doing X-rays on Plaintiff's leg/foot. That is a fact because it wasn't done, and upon information and belief, it was only done on 9-21-21 to cover the fact that nurse Bernice and other defendants named, violated Plaintiff right to proper medical care. Plaintiff was not sent out to the ER for X-rays; doctor Mehta sent Plaintiff there (to ER) for blood clots (DVTs).

49. September 23, 2021; Plaintiff got pulled out for sick calls that were long overdue. The nurse was Amy — the same nurse who said Plaintiff was set for X-rays and that she was going to pull him out to examine his leg/foot but never did. The nurse, Amy, is only trying to cover her tracks for failing to provide medical care for Plaintiff's medical need. Nurse Davis gave out morning meds and nurse Cobb evening meds; both said they tried to get medical to see Plaintiff, but again they are not truthful; only trying to cover their own behinds.

50. October 1, 2021; spoke with nurse Nikki — another nurse Plaintiff knew from NBCI — She was one of the nurses, when Plaintiff was on quarantine, who told him to just flood medical with sick calls until

they see Plaintiff about the spider bites and swollen leg/foot.

51. October 6, 2021; Plaintiff assigned cell was shaken down by Officer Skulley. She wanted to know why Plaintiff had crutches inside the cell once he use them to exit the cell so she, and other officers, could do their shake down. Plaintiff explained his medical situation and produced the "Crutches" paperwork, see attachments.

52. October 7, 2021; an unknown officer, out of uniform, came to Plaintiff assigned cell, around 11:49 AM, and took away Plaintiff's medical assigned crutches that he needed to walk with. The unknown officer said the Captain instructed him to take the crutches—yet, white inmates with "canes" kept their canes—Plaintiff asked how was he suppose to get around without the crutches. The unknown officer said, "Hop," and then left. Plaintiff filed an ARP on the incident. see attachments. Plaintiff still can't understand how a Captain could override medical when Plaintiff was, by the doctor, authorized to have the crutches, and having them was not a security risk. Plaintiff needed the crutches as part of his medical treatment. The indifference is manifested by prison guards intentionally interfering with the treatment once prescribed.

53. October 8, 2021 at 7:00 AM put in a sick call about

leg/foot isn't healing right and that Officers took the Crutches leaving Plaintiff with no means — other than hopping — to get around in the cell. No reply.

54. October 13, 2021 leg/foot swollen again trying to get the tier officer to call medical, no response.

55. October 18, 2021; nurse Karen checked Plaintiff's IMR; it was 2.0. Plaintiff also showed her his left eye which was red, draining and swollen up. She said it looked like pink eye, and she'll let someone know in medical. Plaintiff put in a sick call, and wasn't seen.

56. October 20, 2021; Plaintiff spoke with Property Officer Johnson, and brought her up to date on his health and treatment.

57. October 21, 2021; Plaintiff went before the Classification team — was allowed to use crutches to walk — the guy wasn't interested in nothing to do with Classification: All he was concerned with is trying to force Plaintiff into general population and did he had medical papers for the crutches.

58. October 23, 2021; Plaintiff filed another ARP on crutches; filed ARP on Classification, and put in another sick call about left eye. Foot/leg still throbbing.

59. October 28, 2021; got even meds from nurse Nikki and explained the crutches situation, eye situation, and right leg/foot hurting situation. She said fill out sick calls

and that she would leave a note for Amy.

60. November 1, 2021 filed sick calls to medical about leg/foot, left eye, and bloody stool — also received legal mail from P.G. County — And Plaintiff file a Complaint, to the Chief of Security, about the Crutches, medical, Classification and officers.

61. November 3, 2021; rumor is Plaintiff, and the other inmates on C-tier, HU5, was suppose to be moving to Housing Unit 4 (four) (HU4).

62. November 4, 2021; Plaintiff got moved to Housing 4-C-cell #8, and Crutches returned to him — only because Plaintiff used them to walked over to HU4 and the Officer in that building allowed Plaintiff to keep Crutches once they (officers) saw Plaintiff's leg/foot.

63. November 5, 2021; nurse Karen checked Plaintiff's INR levels and it was 1.6; I showed her how Swollen my leg/foot was. She said it would take about six months are longer to heal, and that since Plaintiff's were in the 1.6 range, she'll report it to NP, Clark so she can adjusted Plaintiff's meds — Coumadin — Cause his blood INR was on the thick side

64. November 6, 2021; nurse James, at 7:15 am, did not have Plaintiff's meds saying the meds was stopped because no one inside of medical renewed the pills.

At 5:00 pm spoke to nurse conducting rounds about not

receiving meds. She took down Plaintiff's name and said she'll look into it because Plaintiff needed his meds. As times before, Plaintiff heard nothing back, and filed a ARP. See attachments.

65. November 8, 2021; Plaintiff spoke with a "visitor" about disable inmates in prison — 1500 Union Ave. Suite 2000, Balt. Md 2124; was address he gave to Plaintiff to write concerning Maryland's prisons disability rights. Filed ARP for not receiving morning meds again.

66. November 9, 2021; Plaintiff spoke with nurse Cole about not receiving his med, and she said the doctor "forgot" to renew it.

67. November 10, 2021; Plaintiff had blood drawn at 12:41 pm by nurse Amber.

68. November 19, 2021; Plaintiff again didn't get his meds from med line nurse Peggy. She said the meds ran out again.

69. December 17, 2021; nurse Karen checked Plaintiff INR levels: 2.9; yet foot/leg still swollen.

70. December 28, 2021; medical conducted a Covid-19 test on Plaintiff which yield negative results.

71. January 5, 2022; Plaintiff did not received his Coumadin from med line nurses.

72. January 6, 2022; Plaintiff did not received his Coumadin from medline nurses.

73. January 9, 2022; Plaintiff did not received his

Coumadin from med line nurses.

KK 74. January 13, 2022; Plaintiff did not received all of his meds. Clearly a pattern is forming that is unconstitutional; that deliberate indifference to serious medical needs of prisoners constitutes intentionally interfering with the treatment once prescribed. (NOTE: Rushed to ER; more herein)

75. January 24, 2022; Plaintiff did not received his meds from pill line nurses. Filed ARP. see attachments.

76. February 18, 2022; Plaintiff is taken off of administrative seg. and returns back to Housing unit 5-B Protective Custody tier (wing).

77. March 4, 2022 thru March 12, 2022 whole prison was locked down. Plaintiff got a Covid-19 test done on March 8, 2022 and again the results were negative.

78. March 23, 2022; Plaintiff leg/foot swelled up to the point the swelling reached his private areas. He told the tier officers on both, '1st and 2nd' shift to call medical; and upon information and belief neither shift called medical. Plaintiff put in a sick call. At the evening med line Plaintiff told nurse Davis about the swelling and she said to fill out another sick call because no nurse was available. (NOTE: The inmate Handbook has already proven that to be untrue).

79. March 24, 2022; Plaintiff still in serious pains and medical hasn't reply to sick calls concerning DVTs.

Morales Feliciano v. Calderon Sierra, 300 F. Supp. 2d 321, 341 (D.P.R. 2004) ("Failing to provide a sick call system that ensures access to care and that is capable of effectively handling emergencies" implicates Eighth Amendment rights).

80. March 28, 2022; Plaintiff informed tier officer Bernnaman about the swelling, and pains; and asked her to call medical. Tier Officer Bernnaman came back and informed Plaintiff that she called medical and spoke with nurse Amy; and that she said after she went over Plaintiff's file she'll come down and see plaintiff. That was 10:45 AM. Around 5:00pm nurse Davis brought Plaintiff his evening meds; and when he questioned her about not being seen by medical: she said that nurse Amy called down to HU5 "three" times for officers to bring Plaintiff up to medical to be seen and no officer was available to do so. Plaintiff, wondering how could nurse Davis have such a ready reply — but the fact was medical still refused to see Plaintiff knowing that he suffer from DVTs that could kill him if not checked on the regular. Plaintiff did informed nurse Davis that he was going to file an ARP on medical, and nurse Amy: for denying him medical treatment.

81. April 2, 2022; Officers once again confiscated (sp) Plaintiff's crutches for no reasons. Plaintiff filed a ARP.

82. April 6, 2022; Plaintiff still has not been seen

by medical, and asked tier officer Ms. Bernnaman what's going on; why won't medical see him when they know he was diagnosed with DVTs that could kill him in a split second. She said, "WCI medical staff is 'slack and messy' and she or no other officer could tell medical what to do, all she could do is call medical but she couldn't make them see plaintiff

83. April 7, 2022; Plaintiff's brother, again, started calling up to prison (WCI) trying to get plaintiff in to see a doctor. Evening med nurse, after seeing Plaintiff leg/foot said she would fine out something and call the tier officer back and try to find out why Plaintiff didn't have a cane at least to help him walk.

84. April 8, 2022; Plaintiff got wheeled up front for a family visit; yet still didn't see no nurse or doctor. But learned, once more, that WCI just gave his family the "musical chair" run-around over the phone.

85. April 17, 2022; Plaintiff Swelling increased in leg/foot and medical still won't see him.

86. April 18, 2022; Plaintiff was set to see doctor but the "officers", not medical — upon information and belief; cancelled the appointment. Plaintiff filed an ARP; also: prison on lock down, but medical still conducted sick calls and still plaintiff wasn't seen.

87. And to back track to April 12, 2022; Nurse

Exhibit B

Davis said, to Plaintiff, that medical was backed up and behind on sick calls — along with shortness of staff — and that's why Plaintiff wasn't being seen or having his levels checked [as the doctor ordered]. Budgetary constraints are not a defense to liability for deliberate indifference to inmates' serious medical care needs. *Jones v. Johnson*, 781 F.2d 769, 771 (9th Cir. 1986); *Harris v. Thigpen*, 941 F.2d 1495, 1509 (11th Cir. 1991)

88. Plaintiff would like to pause to take a moment to explain the DVT medication, Coumadin, to this honorable Court: Warfarin (same as Jantoven or Coumadin) is a blood thinner or anticoagulant. Getting the right dose can be very tricky; 1) Too little warfarin will allow your blood to clot, 2) Too much warfarin can lead to serious bleeding. That's why it's important to have "regular" blood tests to see if the dose(s) needs to be changed. The blood test is called the INR. The nurse, Ms. Karen, who is assigned to check Plaintiff's INR "barely" does it and most times when she does it's because an officer has called medical reporting that Plaintiff is swollen up and having pains, and strange bruises on his leg/foot; or when Plaintiff is sent, or being sent out, to the ER (UPMC Western Maryland, 12500 Willowbrook Road, Cumberland, MD 21502; #240-964-7000)

because she, as well as other nurses, knew that one of the first questions that Plaintiff would be asked by the doctor was 'when was the last time his INR was checked.' Not wanting to jump too far ahead, but Plaintiff must because his life is at stake here, and the time leap is a must to prove his points: on August 2, 2023; Plaintiff's INR was 1.4: Plaintiff has been putting in sick calls complaining about pains and swelling of his right leg/foot and still wasn't seen by a doctor or nurse practitioner. Plaintiff is spitting up a brown-like substance, and filed an ARP, and still has not been seen. Now on the date of August 15, 2023; Plaintiff showed Sgt. Lease his leg, see ARP dated 8-15-23 attached, and he acknowledged that it was twice the size of Plaintiff's left leg, and called medical for someone to come down and see Plaintiff. No one came, except nurse Karen to do the INR test which indicated that Plaintiff's level was 1.7; again another bad reading; and she said that NP, Clark was in medical, and she'll let her know about the reading. (see ARP for more details). No one from medical came down to examine or check on Plaintiff — such low levels require a doctor to see Plaintiff. (NOTE: Plaintiff is "Chronic Care" Clinic" which means a patient (inmate) with a health pro-

blem that cannot be managed without ongoing care) It has become a "established routine" for medical to ignore Plaintiff's serious medical need, and file false "medical reports" stating things Plaintiff never said or done to cover their tracks. NP, Clark — as well as other nurses — has went so far as to lie that Plaintiff's ongoing medical problem comes from him not taking his Coumadin; yet, the med line nurses and the Correctional officers knows that Plaintiff takes the Coumadin everyday in front of them. Nurse Karen and NP, Clark are the ones not doing their jobs; and ignoring Plaintiff's serious medical need. A serious medical need is "one that has been diagnosed by a physician as requiring treatment or one that is so obvious that a lay person would easily recognize the necessity for a doctor's attention." *Monmouth County Corr. Inst. Inmates v. Lanzaro*, 834 F.2d 326, 347 (3rd Cir. 1987).

89. Going back to April 18, 2022; It was Officer, Ms. Smith on a Monday, who told Plaintiff that he was on the medical list to see an "actual doctor". Officer Smith even escorted Plaintiff's Cellmate to the Lieutenant's Office around a 11:31 Am; and Plaintiff's doctor visit was set for 12:45pm. She told Plaintiff that he would be escorted up to medical when they (medical) called for him. It never happened. And just

because the prison was locked down that day (4-18-22) there was still "medical movements", and showers - also inmates were seen for sick calls, and passes to other parts of the prison. Which proves again that Plaintiff was being denied medical treatment, for his serious medical need, intentionally.

90. April 19, 2022; Plaintiff spoke to nurse Davis and asked about the cancelled appointment, and showed her his swollen leg/foot. She said she'll let medical know. I wasn't seen; left to suffer in pain.

91. April 21, 2022; Tier Officer Bernnaman and a white male officer, at a 11:25 am, shook down Plaintiff's assigned cell claiming "someone (another inmate)" dropped a kite (note) saying Plaintiff's cellmate had a home made knife. No knife or any other illegal items were found.

92. April 22, 2022; at 9:40 am, nurse Karen checked Plaintiff's INR levels, and told Plaintiff she would check to see when he would see a doctor because the doctor who was treating Plaintiff no longer worked at the prison (WCI) and that was the reason for Plaintiff's treatments being stopped.

93. April 30, 2022; Plaintiff went out for a sick call, only to have the nurse say he needed to be seen by a provider, and there was no records of him being Chronic care clinic. Again denied medical care for

his serious medical condition.

94. May 8, 2022; Plaintiff again tried to see medical for his serious medical needs; and once more was told by the tier Officer that someone from medical was going to see him on tomorrow (5-8-22).

95. May 9, 2022; Prison on lock down and once more no medical treatment.

96. May 10, 2022; Plaintiff was escorted up front — inside of a part of medical — to have a "zoom" call with his Post-lawyer. Plaintiff waited over two hours, and the Post-lawyer was a no show. Therefore Plaintiff asked to see a doctor and explained the whole "blood-clot" — DVT thing to the Officer inside of medical. She said Plaintiff couldn't see no one and had to put in a sick call. By this time Plaintiff's no show lawyer had sent an e-mail saying she had to reschedule the "Zoom" for a later day. Again no medical treatment, and Plaintiff did filed many sick calls in the hope of being seen by a doctor.

97. May 18, 2022; Once more Plaintiff's cellmate, while in the shower, was shaken down for a knife — and the cell — and nothing was found. Plaintiff filed an ARP "just in case one (a knife) got planted."

98. NOTE; Plaintiff is showing this Court how he has been — Still is — recording what was going on

with him and around him; so this Honorable Court can see how his treatments were ignored, and the lack of INR testes, missing medication, and the "Common" Known [unprofessional and unconstitutional] behavior of the medical staff, and how Officers—including the Wardens and Commissioner—kept turning a blind eye to [the] medical staff. Plaintiff will now "skip" through some documented dates to show this Court how the unconstitutional behavior of medical and prison officials was a known pattern: the medical staff feared nothing or no one.

99. June 9, 2022; Nurse Davis, along with a trainee, conducted the medication pill line and did not have Plaintiff's "Coumadin" for his serious medical condition. When Plaintiff questioned her about it she said, "It ran out." That to is a known habit of medical to intentionally interfere with the treatment once prescribed by a doctor. Plaintiff did file an ARP on that.

100. June 19, 2022; Nurse Davis passed out evening meds and Plaintiff's "Coumadin" was missing again.

101. June 20, 2022; Nurse Davis passed out morning meds and Plaintiff's epilepsy meds were missing.

102. June 21, 2022; Plaintiff, via escort, went to medical and spoke with Nurse Davis about not receiving morning or evening meds. Plaintiff only got partial meds around 8:43pm.

103. July 9, 2022; med line "male-black" nurse had none of Plaintiff's meds; including the Coumadin. He said he'll bring them back, but never did.

104. July 23, 2022; Again nurse did not have the Coumadin for Plaintiff's DVTs. In general, the deliberate indifference standard applies to cases alleging failure to safeguard the inmate's health... and failure to render medical assistance, see *Farmer v. Brennan*, 511 U.S. 825, 834 (1994). "It is beyond debate that a prison official's deliberate indifference to an inmate's serious medical needs constitutes cruel and unusual punishment under the Eighth Amendment." *Gordon v. Schilling*, 937 F.3d 348, 356 (4th Cir. 2019) (citation omitted). A "serious... medical need" is "one that has been diagnosed by a physician as mandating treatment or one that is so obvious that even a lay person would easily recognize the necessity for a doctor's attention". *I KO*, 535 F.3d at 241 (quoting *Henderson v. Sheahan*, 196 F.3d 839, 846 (7th Cir. 1999)).

105. July 24, 2022; Plaintiff not feeling well and filed a sick call about leg/foot starting to swell up, and blamed medical for not having his meds as the doctor proscribed. Kept filing sick calls. (skipping dates to speed things up, because Plaintiff life is in danger and needs this Complaint file A.S.A.P.)

106. Plaintiff kept filing sick calls and renewed

his efforts to get seen when on August 18, 2022 the swelling and pains became unbearable.

107. Finally, after countless sick calls that went unanswered, Plaintiff was seen on September 23, 2022 and rushed — immediately — to the hospital (UPMC Western Maryland) and stayed in the hospital until September 25, 2022; then Plaintiff stayed in the WCI on-site infirmary from September 25, 2022 until September 27, 2022. All because medical didn't monitor Plaintiff's Coumadin — which is a tricky medication that requires "close" monitoring — and the missing meds contributed as well [that nurse kept not having or claimed ran out], Plaintiff being rushed to the ER. It's an eighth amendment violation. It's similar to "... exposure to extreme levels of environmental tobacco smoke that pose an unreasonable risk to future health may be an 8th Amendment violation, and that the plaintiff did not need to wait until he was actually harmed to ask a court to correct unsafe conditions." See *Helling v. McKinney*, 509 U.S. 25, 36, 113 S. Ct. 2475, 2482, 125 L. Ed. 2d 22, 33 (1993). In the current case (complaint) [this] Plaintiff is being exposed to something far more dangerous and deadlier than "extreme levels of environmental tobacco smoke." The Second Circuit defined a serious medical need as "a condition of urgency, one that may produce death, degeneration, or extreme pain." *Plathaway v.*

Coughlin, 37 F.3d 63, 66 (2d Cir. 1994) (quoting Nance v. Kelly, 912 F.2d 605, 607 (2d Cir. 1990) (Pratt, J., dissenting)). See also Carnell v. Grimm, 872 F. Supp. 746, 755 (D. Haw. 1994) ("A 'serious' medical need exists if the failure to treat the need could result in further significant injury or 'unnecessary and wanton infliction of pain.'" (quoting Estelle v. Gamble 429 U.S. 97, 104, 97 S.Ct. 285, 291, 50 L. Ed. 2d 251, 260 (1976))), appeal dismissed in part, aff'd in part, 74 F.3d 977 (9th Cir. 1996). Johnson-El v. Schoemehl, 878 F.2d 1043, 1055 (8th Cir. 1989) (holding that delay in medical care for a condition that is "painful in nature" is actionable). Numerous courts have cited pain as an appropriate reason for finding that a prisoner's medical needs are ~~serious~~ serious. Plaintiff suffer from the could be fatal any second illness DVT (Deep Vein Thrombosis) which is extremely painful and it imposes a life-long handicap. Plaintiff loses the ability to walk once the swelling and pain(s) goes untreated, yet he is still forced to walk - hop or move at a snail pace - and medical refuses to give Plaintiff (at least) a walking cane. Johnson v. Bowers, 884 F.2d 1053, 1056 (8th Cir. 1989) (determining that prison must provide treatment when a "substantial disability" exists). Medical won't supply Plaintiff with none of things he needs, and won't refill the needed things once they ran out. DVTs significantly affects Plaintiff's daily

activities and causes chronic and substantial pain. (quoting parts from *Chance v. Armstrong*, 143 F.3d 698, 702 (2d Cir. 1998). See, e.g., *Blackmore v. Kalamazoo County*, 390 F.3d 890, 899-900 (6th Cir. 2004) (holding that a two day delay in treatment of appendicitis caused pain sufficient to pose serious risk of harm, even though the appendix did not in fact rupture). Plaintiff, from the start, suffered for weeks untreated, and still till the present day suffer days and weeks — sometimes a month — before being sent out to the ER (UPMC Western Maryland [hospital]); and DVTs can kill in flash by sending blood clots to the "Brain", "Lungs", or "Heart"; and WCI medical is very aware of that and still they delay treatment until Plaintiff have to be hospitalized. The only times Plaintiff received anything for pain is when he's sent to the ER, and there the doctors aware of how painful DVTs are provide pain relief meds.

108. Plaintiff left the infirmary on September 27, 2022 and had to be rushed back on October 8, 2022 because Coumadin wasn't working — upon information and belief; medical knew that already when Plaintiff was released from the infirmary on 9-27-22; Plaintiff stayed in the infirmary until October 11, 2022 — still wasn't provided adequate medical care. (NOTE: INR level check on September²⁹ 29, 2022 at 2:10pm proved Plaintiff did not

received adequate medical care while in the prison (WCF infirmary). And to take a step back, on October 7, 2022 Plaintiff was on "video visit" and was in too much pain to continue the visit. Prior to that, early in the day — Plaintiff did file sick calls and had tier officer called medical — nurse Amy, who did send Plaintiff out to the ER before because of his serious medical need, (NOTE: which brings up the question as to why didn't she do that before when Plaintiff first started having DVT problems ^{when} ~~that~~ nurse Bernice kept blocking treatment?), conducted sick calls, on 10-7-22, and wouldn't see Plaintiff. It was obvious on October 4, 2022 when Plaintiff's INR level was 1.9 that the lovenox shots and Coumadin weren't working and that the meds — Coumadin — needed to be adjusted; but instead of checking the charts and adjusting the meds, at 4:00 pm — Oct. 4, 2022 — A black male nurse said NP, Clark took Plaintiff off of the lovenox shots; which went against the doctor's orders and ~~that~~ because of her deliberate indifference action Plaintiff had to be rushed back to the infirmary. Plaintiff, on October 7, 2022; informed tier officer Bernnaman, nurse Amy, nurse Stephine and 2nd Shift about his swollen leg / foot that ballooned up: Plaintiff actually showed it to tier officer Bernnaman, nurse Stephine and a few 2nd Shift officers. (NOTE: Plaintiff did not

informed nurse Amy directly; he did so through tier officer Bernnaman, who told Plaintiff she'd spoken with nurse Amy about his serious medical need. Still, nurse Amy didn't see Plaintiff, and the 2nd Shift Officer who called medical on October 7, 2022 to report on Plaintiff's serious medical need — she (Ms. Hopkins) — actually saw Plaintiff's leg/foot — was Correctional Officer [Ms.] Hopkins. (NOTE: To be clear, on October 8, 2022 on 3rd shift at 12:08 am Plaintiff told the tier officer he need to see medical; and close to tears showed ~~her~~ her his leg/foot. At 12:20 am Two nurses came and examined Plaintiff, and left to go file a report — their words. In less than ten minutes they had Plaintiff brought up to the infirmary; Plaintiff's Cellmate (not the one whom kept getting shaked down; Plaintiff had a new cellmate) pushed him up to medical in a wheel chair). During this time the nurses tried, once more, to get Plaintiff to sign a form saying they (medical) wasn't responsible. Again Plaintiff refused to sign it.

109. October 9, 2022; NP Clark entered Plaintiff's Cell, inside the infirmary, with a group of nurses and provided Plaintiff with the Compression Stockings that she'd claimed Plaintiff stole. Once she'd realized that Plaintiff wasn't issued the medical items she still didn't apologized for her unprofessional actions.

upon information and belief, she was upset that Plaintiff had filed ARPs on her, so she tried to draw Plaintiff into a verbal confrontation.

110. October 10, 2022; Plaintiff was seen by Mr. Masoud Djahanmir, MD inside his assigned infirmary cell and MD, Djahanmir agreed with Plaintiff that NP Clark shouldn't have removed him off of the lovenox shots. She had no business going against what he'd ordered. (NOTE: That wasn't the first time, nor will it be the last time NP Clark disobeys doctors orders. It's a never ending roller coaster with her and many others on WCI medical staff). MD, Djahanmir still tried to help her save face by saying "maybe she thought 1.9 was good enough to end the shots"; but stated also he wasn't taking her side. Plaintiff disagree because since being diagnosed with DVTs the goal from day one was to get the INR to stay between 2 (two) and three (3) — not 1.9 or anything else under two. It's in Plaintiff's medical files, so NP Clark intentionally interfere with Plaintiff's treatment and brought upon him uncalled for pain and suffering. "It is beyond debate that a 'prison official's' deliberate indifference to an inmate's serious medical needs constitutes cruel and unusual punishment under the Eighth Amendment." *Gordon v. Schilling*, 937 F. 3d 348, 356 (4th Cir. 2019) (citation omitted).

MD, Djahanmir cleared Plaintiff to returned back to his assigned Unit after "correcting" his meds back to his original order.

111. October 11, 2022; Plaintiff INR was 2.4; but the evening med line nurse didn't have Plaintiff's Coumadin. The (black male) nurse said he was going to find out why and let Plaintiff know something. Plaintiff received no DVT meds and nor did he heard anything back from medical. (skipping ahead)
112. November 10, 2022; seen NP Clark for Chronic Care. She put Plaintiff in to see the eye doctor. Plaintiff showed her that his right leg/foot was swollen and that no one had checked his INR since 10-11-22. NP Clark said Nurse Karen was going to come down and check the levels. Plaintiff levels were not checked. And Plaintiff complained about left knee that was swollen.
113. November 11, 2022; med line nurse did not have Plaintiff's Coumadin for his DVTs. When he asked the nurse why. The nurse said NP Clark had discontinued all of Plaintiff's meds. ARP filed. (note: Plaintiff has filed countless ARP on medical, so just because he don't say it on every date don't mean he didn't. Many of the attachment will fill in any blanks concerning that).
114. November 12, 2022; Plaintiff received no meds for his DVTs.
115. November 29, 2022; Plaintiff filed sick calls

because DVTs acting up badly. Plaintiff was in serious pains and leg/foot was twice its normal size.

116. December 16, 2022; Plaintiff received no replies to sick calls. Nurse Karen came down and checked Plaintiff INR "only". The INR level was 1.3; which signified that Plaintiff needed to see a doctor; but again Plaintiff saw no one.

117. December 18, 2022; a sick call nurse came down to "only" talk to Plaintiff about the left knee and bloody stool issues. She said another nurse was going to handle the DVT issue. Plaintiff requested a walking cane to help him "walk" without putting too much pressure on either leg. She said only NP, Clark could authorize that, and she put left knee in for X-rays to be done. At that time Plaintiff request for a MRI to be done as well. (till this day of filing this suit Plaintiff is still waiting on the MRI, see attachments, and the knee is still swollen and pains like a toothache).

118. December 29, 2022; INR levels checked by nurse Karen, the results being 1.9; leg/foot still swollen and pain is evident; but she said she was there to do the finger stick only to checked INR.

119. January 6, 2023; saw sick call nurse who said she couldn't treat Plaintiff; and said he was set to see the Provider next week.

120. January 19, 2023; went out at 3:43 am to receive

lovenox shot, and the med-line nurse didn't have it. The shot(s) are need to help maintain Plaintiff's DVTs/levels. (NOTE: Medical missed the shots on January 15, 2023 to). Later on that same day, 1-19-23, Plaintiff was supposed to go to sick call but it was cancelled, and nurse Karen failed — as normal — to come to unit and check Plaintiff's INR.

121. January 22, 2023; filed more sick calls, and complaints about being removed from the lovenox shots when ^{his} levels weren't checked, and no doctor saw Plaintiff. Tier Officer called medical and a nurse said Ms. NP, Clark was in and she'll pass along the message (complaint). The Plaintiff's levels weren't checked, and nor did NP, Clark called the Unit Officer back or came down to see the Plaintiff — whose leg/foot was swollen twice its normal size and had Plaintiff rolling in pain.

122. January 27, 2023; nurse Karen checked Plaintiff's INR levels which was 1.3 — Plaintiff's leg/foot swollen. The INR test was done around 11:00pm; during the time Dr. Djahanmir was down in the unit conducting Chronic care visit with other inmates. Nurse Karen stepped into the room where Dr. Djahanmir was and informed him of the INR level. He put Plaintiff back on the lovenox shots. Plaintiff received a shot at evening med time, and nurse said he had to watch Plaintiff take his Coumadin pill. Plaintiff did as instructed, but was puzzle by the med-line nurse re-

marks since the med-line nurses do that anyway to make sure inmates are taking their medicine. So, when Plaintiff asked him what that was about, he said that Nurse Karen and NP, Clark "felt like" Plaintiff was not taking the Coumadin pill. Plaintiff filed an ARP on that and requested for a blood test to be done and for the Unit Officers—who witnessed that he takes the Coumadin everyday, its available, in front of them as well as in front of all the med line nurses. Plaintiff "knows" from experience that medical was trying to place the blame on him for "them" not doing their jobs. Medical don't have the lovenox shots as they should or the Coumadin pills, see attachments, And that's why Plaintiff's serious medical Condition keeps getting worse.

123. January 28, 2023; Nurse Peggy (Lewis) didn't have the lovenox shot, and said to Plaintiff that she knew nothing about Dr. Djahanmir placing him back on the [lovenox] shots; (NOTE: That's why the medicine isn't working. The Coumadin has to "constantly" monitor and the shots has to be done on time daily). Plaintiff told tier Officer Bernnaman about not receiving the lovenox Shot. She called medical and was told that it was to late now for Plaintiff to get the shot because the shots—given twice daily—had to be every 12 hours; another thing medical isn't doing. *Tillery v. Owens*, 719 F.Supp.

1256, 1305-06 (W.D. Pa 1989) (lack of proper administration of medical services and "general disorganization" of nursing services contributed to an Eighth Amendment violation), aff'd, 907 F.2d 418 (3d Cir. 1990).

124. January 29, 2023; Nurse again did not have the lovenox shot. Once more Plaintiff had tier Officer MS. Bernnaman called medical; this time a black male nurse at 8:57am came down to the unit and gave Plaintiff the shot in the lobby area of H05; Which means again the shots won't be given 12 hours apart from each other.

125. January 30, 2023; Plaintiff was called out to sick call for an old sick call he'd filed about the meds not working — because not being properly administered — the nurse that conducted the sick calls was nurse Crystal Naylor(sp??),

126. January 31, 2023; Plaintiff is told the lovenox shots have been stopped per NP Clark; Plaintiff did not received the shots. Plaintiff filed an ARP because how could the "shots" be effective with so many missed shots and Coumadin pills missed [due to the deliberate indifference of medical staff].

127. February 1, 2023; after Plaintiff filed an ARP, (the January 31, 2023 one), Nurse Karen checked his INR and the level was 1.2; meaning because of medical failure to properly medicate Plaintiff the shots and pills weren't working.

128. February 2, 2023; the med-line nurse did not have Plaintiff DVT meds. She informed Plaintiff that his "Warfarin" (same as Jantoven or Coumadin) was being changed to a new med because the Warfarin wasn't working. Plaintiff told her no "doctor" told him that, and the meds wasn't the problem the nurses "failure" to have the meds for Plaintiff was the real problem. She said the new meds would start tomorrow.
129. February 4, 2023; Plaintiff nose started bleeding out of no where. The tier Officer Troutman was told and seen bloody nose; he called medical and was told someone would come down to see Plaintiff: no one did. (Turned in ARP on 1-5-23 about swollen left knee and sick calls).
130. February 9, 2023; spoke with Dr. Djahanmir and he explained the new DVT meds to Plaintiff. He said the "Xarelto" was better and that he had to fight through a lot of Channels to get the med approved.
131. To back up, on February 5, 2023; Plaintiff filed ARP about his still paining and swollen left knee that has been in that same "painful condition" since December 28, 2022 (date saw NP, Clark who resubmitted the knee to be X-rayed. Swelling was prior to that date). (Knee still has not been properly examined by way of an MRI till this day (the filing of this civil suit)). Petrichko v. Kurtz, 117 F. Supp. 2d 467, 473 (E.D. Pa. 2000) (denial of access to a physician for two weeks could constitute deliberate

indifference). Medical Claimed, see ARP attachments, that Plaintiff was put in to have a MRI done. That delay is similar to the DVT, delays, discovery because of nurse Burnice. She blocked all roads to treatment once Plaintiff filed ARPs on medical for not seeing him or examining when his right leg/foot started swelling back in August of 2021, and now its the same old song and dance with Plaintiff's left knee. Mandel v. Doe, 888 F.2d 783-90 (11th Cir. 1989) (damages awarded where physician's assistant failed to diagnose a broken hip, refused to order an X-ray, and prevented the prisoner from seeing a doctor). (NOTE: Plaintiff did speak with Dr. Djahanmir about his left knee, and he was under the notion that NP, Clark was going to handle it). ~~Doc 23-90086~~

132. Also on February 9, 2023; during plaintiff visit with Dr. Djahanmir; he placed orders for Plaintiff to have lab (blood) work done, to see the "foot doctor," and for Knee X-rays. He also ordered Plaintiff's medical supply which consisted of thigh high compression stocking for right leg, lotion for his extra dry skin; Dr Djahanmir also informed Plaintiff that the switch from Coumadin to Xarelto came with the benefit of not needing it to be monitored by nurses who kept failing to "properly" monitor the Coumadin.

133. February 10, 2023; Two unknown nurses had Plaintiff brought to the sick call room to sign, allegedly, some insurance papers [regarding the Xarelto medication].

134. February 14, 2023; Prison officials cancelled the

doctor appointment for the lab work and for the X-rays
135. February 15, 2023; The lab work that Dr. Djahanmir ordered was conducted at 12:33pm. Plaintiff's blood was drawn as required.

136. February 17, 2023; Plaintiff was on the pass list to have the X-rays done on his left knee and no one came to escort him to medical; nor did anyone from medical explain why the X-rays weren't done [again].

137. February 21, 2023; Finally the X-rays were done on Plaintiff's left knee—which was still swollen and still is till this day. It's a constant toothache—that's what the pain reminds Plaintiff of—a daily/nightly nagging and
KK painful ~~in~~ thromb in the knee. (NOTE: Plaintiff has been trying to get something for his pains since August of 2021, and the prison medical staff refused to give him anything for pain).

138. February 24, 2023; Nurse Stephine did not had Plaintiff DVT meds. Once more Plaintiff is forced to missed his meds due to the deliberate indifference of medical; and Plaintiff did get no DVT meds at even med-line, again medical didn't have his meds.

139. March 1, 2023; Plaintiff was placed by on the old meds (Coumadin) by NP, Clark without being seen and now back at the hands of the monitoring nurse—who does not do her job properly. Plaintiff filed an ARP for the "out of no where" switched meds. The "Coumadin" as doctor Djahanmir pointed out wasn't

working because it required "regular INR checks" and medical wasn't doing that.

140. March 5, 2023; Plaintiff went out for a sick call concerning meds, and not having INR checked.

141. March 6, 2023; Plaintiff is in pain. Nurse Karen came to check INR levels and its 1.2, which is not good. Leg/foot starting to swell.

142. March 10, 2023; Plaintiff unable to walk due to leg/foot swollen, had to wheel chaired to visit. In pain and put in "plenty of sick calls".

143. March 11, 2023; Plaintiff — after filing an ARP on it — received, from nurse Amy, the thigh high medical stocking. she said the lotion was on its way and put Plaintiff back in to be seen by the doctor for DVTs and left

KK Knee (cause its still swollen and hurting)

144. March 17, 2023; Placed on "two" types of blood thinners for DVTs. (Different dosage of the Coumadin); also had a medical trip for "UPMC" cancelled once at the doctor office; it was to have Plaintiff's Colon checked.

145. March 21, 2023; INR levels — checked by nurse Karen — was 2.0.

146. March 22, 2023; NP Clark came on tier to cell # 28 for a spanish inmate to sign a "refusing medical treatment form". Plaintiff asked to speak with her, and she said she'll pull him out. NP, Clark left the tier and building (unit) without any intention of speaking with

plaintiff about his medical concerns. (Plaintiff did informed her that it was about his DVT meds being switched back to the got to be monitored Coumadin medication).

147. Once more Plaintiff would like to take a step back; this time to November 29, 2022; Plaintiff leg/foot was the size of parade balloons (meaning three times its normal size) and he told the tier officer Brennaman about the pain he was in, and asked her to call medical. The prison Chaplain came onto the tier, and Plaintiff asked him to pray for him, and explained his serious medical needs to the Chaplain. A nurse came to the unit to check on a white inmate, and refused to see Plaintiff. The Chaplain and Plaintiff — per Chaplain orders (request) — prayed on the tier for the living God to heal Plaintiff and let His will be done. The Chaplain even said that the prison medical isn't good and that we (inmates) need to pray for it (medical). Still no one from medical came to examine Plaintiff or checked his INR levels — the INR levels should be between 2 and 3; anything below "two" (2) requires changes to the Coumadin and Iovenox injections. When NP, Clark kept — and still do — removing Plaintiff off of the Iovenox injections while his INR levels remained under two and in the ones, she intentionally cause Plaintiff unnecessary pain and harms. Plaintiff leg/foot always immediately swells and the bloody stool, spitting up brownish substance,

dizziness, stomach pains, and sleepless nights comes with it; And not getting seen for the pains she caused is the norm. NP, Clark won't see Plaintiff, and won't allow any other nurse to see plaintiff; she would just wait a few days and then put plaintiff back on the lovenox injections she shouldn't have stopped to begin with. NP, Clark is "allowed" to play games with Plaintiff's life at will.

148. March 25, 2023; Plaintiff was seen by sick call nurse — a white and a black female(s) nurses — about sick call on left knee. They examined Plaintiff's knee and acknowledged that three knots could be visibly seen, and that it was "tender" to the touch. Plaintiff explained the daily — nightly as well — pain he has been forced to endure, and asked for a cane due to the fact the right leg/foot stays swollen and paining him and the left knee is basically in the same shape. He was denied a cane — even with the "visible" swelling to right leg/foot and left knee — The nurses noted that X-rays were done on Feb. 21, 2023 to prove out any breakage. Plaintiff was, upon information and belief, put in for pain meds — "Never received anything for pain" — and to be seen by a doctor. Again, the left knee is going untreated just like Plaintiff's right leg/foot in the beginning; it's a pattern of delayed treatment. *Tillery v. Owens*, 719 F. Supp. 1256, 1305-06

(W.D. Pa 1989) (lack of proper administration of medical services and "general disorganization" of nursing services contributed to an Eighth Amendment violation), *aff'd*, 907 F.2d 418 (3d Cir. 1990). Courts usually agree that a prisoner can show a serious medical need if the "failure to treat a prisoner's condition could result in further significant injury or the 'unnecessary and wanton infliction of pain.'" *Estelle*, 429 U.S. at 104; *Jett v. Penner*, 439 F.3d 1091, 1096 (9th Cir. 2006).

149. March 31, 2023; med-line nurse (a male) didn't have Plaintiff's Coumadin for DVTs. Said he would bring it back and never did.

150. April 1, 2023; med-line nurse didn't have the Coumadin for DVTs — which is a serious medical need that could become fatal at any second especially when not treated or treated properly. "It is beyond debate that a 'prison official's deliberate indifference to an inmate's serious medical needs constitutes cruel and unusual punishment under the Eighth Amendment.'" *Thompson v. Virginia*, 878 F.3d 89, 97 (4th Cir. 2017); *Gordon v. Schilling*, 937 F.3d 348, 356 (4th Cir. 2019).

151. April 2, 2023; med-line nurse didn't have Plaintiff's Coumadin — for DVTs — (Note: When medical is written up by Plaintiff his meds always seems to vanished or the Ivermox injections (shots) stopped to cause 'wanton infliction of pain').

152. April 3, 2023; Nurse Karen came down to the

Unit to checked Plaintiff's INR levels — see unit log book — but couldn't; due to the fact that medical failed to provide Plaintiff's medicine for his serious medical needs. She said the readings would be off since Plaintiff was, not by choice, off his meds. Plaintiff filed ARPs on that; and, see attachment, medical KK tried to cover their track ~~on~~ with the help of the ARP Coordinator — upon information and belief of course.

153. April 5, 2023; nurse peggy (Lewis) brought Plaintiff the "doctor" proscribed lotion — after Plaintiff had filed an ARP on medical for not giving him his doctor ordered medical supplies.

154. April 14, 2023; med-line nurse didn't have Plaintiff medication, Coumadin, for DVTs.

155. April 15, 2023; med-line nurse did not have the medication for Plaintiff's serious medical condition (DVTs)

156. Also, later in the day of April 14, 2023; Plaintiff was seen for a sick call about his left knee; the nurse who saw Plaintiff was "Kimberly" and another nurse whom Plaintiff can't named at the moment. But she said she was only there to addressed the left knee only, and knew nothing about missed meds for Plaintiff's DVTs. Nurse Kimberly showed Plaintiff on the medical computer screen where "she" had put in two times already for Plaintiff to see the doctor. Plaintiff showed her his left knee and right leg/foot, and explained the

pain he was in, and how walking was a task itself with serious medical needs going on on both legs. He asked for a cane, and was told that the doctor had to approved it; she just couldn't give Plaintiff a cane despite the medical need for one. Under the Eighth Amendment, Plaintiff is entitled to medical care for "serious medical needs." One Court described a serious medical need as "one that has been diagnosed by a physician as mandating treatment or one that is so obvious that even a lay person would easily recognize the necessity for a doctor's attention." *Hill v. Dekalb Reg'l Youth Det. Ctr.*, 40 F.3d 1176, 1187 (11th Cir. 1994). Courts usually agree that a prisoner can show a serious medical need if the "failure to treat a prisoner's condition could result in further significant injury or the 'unnecessary and wanton infliction of pain'." *Estelle*, 429 U.S. at 104;

157. April 26, 2023; NP, Clark came down to the unit to conduct chronic care check ups. Plaintiff told the tier officer that he needed to see her about the missing meds and his left knee, also right leg/foot. Tier returned telling Plaintiff that NP, Clark did not want to see him. Plaintiff asked the tier officer to find out when his INR levels was going to be checked; He was told, upon information and belief, when they (medical) get around to it. Plaintiff filed an ARP.

KX(158) 158. April 28, 2023; nurse Karen came to the unit

to checked Plaintiff's INR level. The INR was 1.1 — that was done at 9:04am — and she questioned Plaintiff like he wasn't taking his Coumadin. Plaintiff told her his levels being under two was due to medical not giving him his meds as the doctor proscribed. Medical always trys to blame Plaintiff for their failure to do their jobs. Because of medical not following the treatment orders of "doctors" Plaintiff is on DVT meds life-long and is inflicted with life-long pains, and swelling. Plaintiff can't even wear shoes on his right foot because of the swelling and pain. Dr. Djahanmair has warned nurses before about not following his, and other doctors, proscribed treatment. Nurse Karen, and any other nurse involved with checking Plaintiff's INR levels, are suppose to check Plaintiff's INR levels "weekly" and if the levels are under two, then the lavenox shot ~~sh~~ should remain in effect, if already on it; or put into effect, if not on it. NP, Clark always interfer with the doctors orders, and changed up what has already been proscribed for Plaintiff's DVT treatments; and Nurse Karen do not take the INR weekly — nor do any other nurses. The doctor's orders are not being followed; and the lavenox injection are not being administered every twelve hours as doctors proscribed. Plaintiff may received one shot (first injection) between 3:00am and 3:45am and the second shot (next injection) between 4:38pm and eight pm at the latest. The doctors set the lavenox in-

section every twelve hours for a reason, and by the prison medical staff not doing or following the doctor's orders, Plaintiff's Conditions (DVTs) has gotten worse and "new" DVTs has developed because of their intentional deliberate indifference to Plaintiff's serious medical needs. *Hill v. Marshall*, 962 F.2d 1202, 1213-14 (6th Cir. 1992) (stating that Corrections official whose job was "to review and respond to inmates' medical needs" could be liable for failing to do his job when he was on notice of prisoner's medical needs). The Second Circuit defined a serious medical need "a condition of urgency, one that may produce death, degeneration, or extreme pain." *Hathaway v. Coughlin*, 37 F.3d 63, 66 (2d Cir. 1994) (quoting *Nance v. Kelly*, 912 F.2d 605, 607 (2d Cir. 1990) (Pratt, J., dissenting)). *Estelle v. Gamble*, 429 U.S. 97, 104-05, 97 S. Ct. 285, 291, 50 L. Ed. 2d 251, 260 (1976) ("We therefore conclude that deliberate indifference to serious medical needs of prisoners constitutes the 'unnecessary and wanton infliction of pain' proscribed by the Eighth Amendment. This is true whether the indifference is manifested by prison doctors in their response to the prisoner's needs or by prison guards in intentionally denying or delaying access to medical care or intentionally interfering with the treatment once prescribed").

159. May 24, 2023; Plaintiff asked tier officer "Robey" to call medical because his right leg/foot had swollen up and that he was in pain. He also requested that he

(Robey) ask for nurse Karen to check his levels. Plaintiff's also pointed out that his left knee is still hurting and swollen, that the "MRI" wasn't done on — left knee was swollen since 12-28-22; nurse Karen did not come down and nor was Plaintiff's level check or any other nurse saw Plaintiff. The last time Plaintiff's level was checked the INR was 1.1; which isn't good and required changes to his medication which wasn't done. *Lloyd v. Lee*, 570 F. Supp. 2d 556, 560 (S.D.N.Y. 2008) (holding that prison officials' failure to give an inmate an MRI nearly one year after he suffered a torn rotator cuff and ripped tendon in his shoulder asserted a plausible claim of deliberate indifference). (NOTE: on May 23, 2022 NP, Clark conducted Chronic Care visits in the unit and still wouldn't see Plaintiff prior to the mentioned date of this incident.). *Hoptawit v. Ray*, 682 F. 2d 1237, 1253 (9th Cir. 1982) (stating that serious deficiencies in a prison's medical care, including failure to provide the opportunity to make a sick call or to voice medical concerns, meet the standard of deliberate indifference).

160. May 26, 2023; Nurse Karen checked Plaintiff's INR levels, around 12:40 pm, and it was 1.2; and her Officer and Officer Brennaman was working on that day. Ms. Brennaman was the one who told Plaintiff to get ready because nurse Karen was on her way.

161. May 28, 2023; two nurses came down and examined Plaintiff's right leg/foot after her Officer called medical

because of Plaintiff's leg/foot being close to "three times" its normal size. The nurse took, with an officer escort, Plaintiff to the dispensary and checked his INR levels. Plaintiff's INR was 1.1; and one of the nurse — both white females — called NP Clark who told the nurses that Plaintiff isn't taking his medication, and that there was no record of his levels being checked by nurse Karen on 5-26-23; Plaintiff said "get with the med line nurses and officers in the unit and they would all confirmed that plaintiff takes his Coumadin in front of them, and tier officer and Ms. Brenneman could confirmed that on May 26, 2023 nurse Karen did come to the unit and checked Plaintiff's INR. As the records herein has not only indicated, but has also proven: Medical always tries to put the blame on Plaintiff when they are the ones at fault for not doing their jobs of following doctor(s) orders of treatment for Plaintiff's DVTs. (Nurse did missed lovenox shots too).

162. May 30, 2023; Plaintiff's INR levels were checked and was 1.5; still no adjustment to medication.

163. To back up to: May 13, 2023, at 3:30am, white male nurse did not give plaintiff's his lovenox injection saying he had it but couldn't give it to Plaintiff because it (the lovenox injections) had expired. Plaintiff lovenox injections should not have expired because his levels was still under two(2). The nurse said he couldn't give

the shot until he get with the doctor or NP, Clark. Which is again against the doctor's orders. If levels (INR) is under two, the lovenox injections should not stop.

164. June 4, 2023; Had to be rushed to ER (UPMC Western Maryland) hospital because of DVTs, swollen (leg) foot and extreme pain. Doctors note that levels were off, and that INR wasn't being checked as ordered; and that medication wasn't being administered as instructed. See attached meritorious ABRs.

165. June 5, 2023; Plaintiff only received his evening lovenox injection, not the morning injection because the nurse didn't bring it with her.

166. June 6, 2023; Plaintiff didn't received the morning lovenox injections, and had tier officer called medical. Nurse Stephine, who done morning med. line, said she didn't know anything about Plaintiff's lovenox shot (injection) but would check into it. Plaintiff heard no more about it. And to be clear; on June 5, 2023, Nurse Karen did came down, later in the day, to check Plaintiff INR — which was 1.9 — and he informed her that he wasn't receiving the lovenox injections like the doctor ordered. Nurse Karen said that she was going to look into it, because Plaintiff need those shots, and needed them on time. And on 6-6-23 after the missed morning shot (lovenox injection) Nurse Karen, later on in day, checked Plaintiff's INR — which was 1.7 —

and he voiced his complaint then to about not having the lovenox injection. And nurse Karen voiced the same remarks she'd said on June 5, 2023: As this Court can see; nothing was done, Plaintiff's "needed lovenox injection" still was missed the following day.

167. June 7, 2023; Again Plaintiff received no lovenox injections; and again, later on in the day, nurse Karen checked his INR levels — which was 1.6 — and again he voiced his concerns about not receiving the lovenox injections;

KK and nurse Karen had the ~~audacity~~ audacity to question Plaintiff about whether he's taking his Coumadin as instructed because of the under two levels, when it was medical not giving him the lovenox injections. Plaintiff

KK told her that its medical who is not ~~do~~ doing what the doctor(s) ~~ordered~~ ordered — not him; and he takes his Coumadin daily in front of the med-line nurses, with officers present. Also, on this day, he asked her to check into why he's not being given another Compression Stocking for his "DVT" right leg. She said she'll look into it. (NOTE: on 6-6-23; plaintiff had lab drawn).

168. June 23, 2023; Plaintiff was escorted to the dispensary; while there he had a Chest X-ray done; a EKG done; and nurse Karen checked his INR — which was 1.8; and was told that he was being checked out to make sure he was healthy enough to have the Colon exam done. The INR still was under two.

169. June 27, 2023; Plaintiff INR level, checked by nurse Karen, was 1.9.

170. June 29, 2023; Plaintiff was seen by NP, Clark who told Plaintiff concerning his "medical needed glasses", that she'd put him in since November of 2022 to be seen by the eye doctor — till this day Plaintiff still haven't seen an eye doctor — and she did know why Plaintiff haven't seen the orthopedics yet about his foot. Said she'll look into it; and she put Plaintiff in for a compression stocking, lotion — again; she saw that Plaintiff's right leg/foot was black and red, with some swelling. Plaintiff, out of fearful concern asked NP, Clark about losing his leg or foot and she said as long as Plaintiff remain on "blood-thinners" he couldn't lose his leg/foot. Plaintiff didn't find that comfort (comforting). Plaintiff asked when was an MRI was going to be ^{done} on his left knee which won't go down and pains him nonstop. NP, Clark acknowledged that the X-ray showed something that could be a tumor or — some other medical term she used — and that the MRI was being set up. Plaintiff knew from the bloodclots until now that medical always delay treating him for anything. The knee has been swollen and throbbing since December of 2022 — just like it took medical until September of 2021 to realized Plaintiff's swollen and throbbing right leg/foot was

from DVTs. (Instead of a MRI, Plaintiff got another X-ray done on July 7, 2023 of his left knee. On the attached ARP it said an MRI is set to be done, but still none has been done, and the swelling and pains has increased. Whenever Plaintiff ask for pain meds, he's told to buy it himself from the Commissary.)

171. June 30, 2023; Officer Rhinehart called medical about Plaintiff right leg being swollen, redish and black — foot also — and nurse Kimberly came down, and acknowledged it and said she'll file a report for someone to see Plaintiff.

172. July 3, 2023; nurse Karen checked Plaintiff INR, which was 2.2.

173. July 7, 2023; Got another X-ray done on left knee; same results as first X-ray, and still no MRI done as promised.

174. July 11, 2023; Plaintiff got blood drawn (lab work).

175. July 25, 2023; Plaintiff INR levels ~~was~~ 2.2, checked by nurse Karen. For medical procedure he is taken off of the Coumadin and placed back on the lovenox injections.

176. July 26-27, 2023; Plaintiff was admitted to the infirmary to get prep for Colon examine. levels on July 27, 2023 — taken by Karen; was 1.2. Plaintiff went out to UPMC Western Maryland for the colon test. The

doctor found something on Plaintiff Colon — Plaintiff knows swelling was involved; and that it required a life long medical treatment to keep the founding stable. Till this day Plaintiff hasn't received no medicine for it, and has written many sick calls and non-related sick calls request to medical about it; still no reply.

177. August 2, 2023; Nurse Karen checked Plaintiff's INR levels and it was 1.7

178. August 15, 2023; Plaintiff's leg has also tripple in size and pain is shooting throught his leg/foot. He put on a pair of shorts, and showed Sgt. Lease his legs. Sgt. Lease, comparing the left and right leg, and he called medical immediately because he was aware of Plaintiff suffering from DVTs. Nurse Teri came down to the unit to pass out medical supplies to inmates, and Plaintiff showed her his legs, and asked her about his /the Compression stocking; that was around 12:15pm — keep in mind Plaintiff report it since 10:45am. Nurse Teri said she was the "LCNP" (???) that day and would report it to the nurse on duty. Once she left, at arand 2:10 pm nurse Karen came down and checked Plaintiff's INR only — Tier officer Herns was present and he told Plaintiff that he logged his involvement inside the tier log book; Plaintiff's INR was 1.7, and as the norm she queshoned Plaintiff about taking his

meds. Plaintiff explained to her that "Yes" he takes his meds in front of the med-line nurse and officers; and that he has a nine year to get home to — and family; so stop asking him that when it's obvious that it's medical who are not doing their jobs. Plaintiff asked is there some sort of blood test medical could do to see that yes he is taking his meds by the toxic build up or something, because he's tired of being asked that like that was going to be the lie(s) medical tried to spin if he was to die because of their deliberate indifference. Nurse Karen said that NP, Clark was inside of medical and she'll let her know the INR levels, and see what she wanted to do. Plaintiff heard nothing back.

179. August 16, 2023; Plaintiff told 3rd shift (mid-night shift) about trying to see a nurse because all nurse Karen done was checked his INR — nothing else. At 5:05 am the tier officer told Plaintiff he was being placed back on the lovenox shot — Plaintiff was removed per NP, Clark's order off of the lovenox shots, while his levels was still under two(2); Plaintiff was spitting up brownish substance, blood, and bloody stool.

180. August 16, 2023; Plaintiff showed, around 10:13 am on 1st shift, Officer Bernnaman his right leg and foot. Tier Officer Hearn was there also. She called up to medical and spoke with nurse Stephine who told her that they were aware of Plaintiff's situation and someone was

Coming down to examine Plaintiff. After no one from medical came down; tier Officer Herns then called medical around 12:14pm and voiced his concerns after seeing how huge Plaintiff's leg was and the pain he was in. When the nurse tried to say to him that nurse Karen had already examined Plaintiff; Officer Herns told whomever he was speaking to — later found out it was a nurse Tara — that wasn't true, she too promised that someone would come down to see Plaintiff. Tier Officer Herns reminded medical that Plaintiff is dealing with "blood clots" and he didn't want him dying on his watch. No nurse came down to see or examine Plaintiff. At 12:24pm; Plaintiff saw Sgt. Rounds, and showed him his leg/foot and he informed Plaintiff that Officers had made ~~several~~^{many} calls to medical and the nurses kept claiming that Plaintiff was seen and examined yesterday by nurse Karen — which tier Officer Herns — who was inside the room with the Plaintiff — told him wasn't true; but that was the lie medical used not to see or examined Plaintiff for his serious medical needs that even was obvious to lay person.

181. August 17, 2023; Nurse Jess gave Plaintiff the lovenox injection, and took a moment to examined his leg/foot. She said medical claimed nurse Karen examined Plaintiff. He said do you think nurse Karen would have, after seeing his leg/foot, not filed an emergency report. The

Plaintiff out of respect for nurse Jess will not go into further detail about that talk in front of his assigned cell. Again, Officer Herns was inside that room and witnessed that all nurse Karen done was checked Plaintiff's INR and said that NP Clark was in and she'll inform her of the readings.

182. August 18, 2023; Plaintiff was brought out to see Dr. Dihammir; The doctor examined Plaintiff's right leg/foot and acknowledged the swelling and said he was going to put in for some "images" to be done, and he was a bit upset at the facts that nurse Karen was not during the INR level checks weekly as proscribed; and he was also "visibly" upset at the fact that NP, Clark kept stopping the lovenox injections while ~~the~~ Plaintiff's levels was under two. He said the lovenox injections is a bridge with the Coumadin and should not be stopped when Plaintiff's INR remains under two, and that all the nurses, including NP, Clark, was aware of that. He further went on and said that if the medical staff couldn't do the simple INR finger sticks as ordered, he'll have to demand lab work weekly to make sure its done, but he don't want to put plaintiff throw that. Plaintiff told him he just wants to live and a little shot/blood drawn weekly isn't no big deal especially due to the fact it can "help" save his life. He said he didn't authorized for NP, Clark to change his, or any other doctor(s), orders concerning Plaintiff's treat-

ment, Dr. Djahanmir said he doesn't know why the MRI wasn't done on plaintiff's left knee yet or why plaintiff wasn't given the compression stocking as ordered. Plaintiff told him that nurses, including NP, Clark, refuses to see him once they have offset his treatments, and file false reports to cover their "intentional deliberate indifference to Plaintiff's serious medical needs. (NOTE: Due to the fact that Plaintiff's brother kept calling up to medical about the ongoing unconstitutional medical care at WCI prison medical staff; Plaintiff was finally able to see a doctor and voiced his concerns about his inadequate medical care to his serious medical needs.). Plaintiff told Dr. Djahanmir to see, or look into, how many times he's been rushed to the ER because of NP, Clark "Changing his meds" without a doctors permission or placed in the prison infirmary to concealed the facts that she'd taken Plaintiff off of the lovenox shots while being well aware of the facts his INR levels was under two: which makes her actions intentional. Plaintiff, upon information and belief, is being punished "medically" for filing ARP Complaints against WCI medical staff. The way -pattern- of things can be seen herein. Plaintiff, has been rushed to ER, because of medical staff intentional deliberate indifference on, just to list a few; September 8, 2021; September 23, 2022; and January 13, 2023. And still the "intentional" delibe-

rate indifferences continues. The doctor, Djahanmir, was told about Plaintiff — by the plaintiff — about him spitting up brownish substance, coughing up blood, bloody stool, urinating and drops of blood following, and having dizzy spells, chest pains, and shortness of breath that medical hasn't seen him about. All, which are signs, that a doctor needed to be called in. All medical do is say put in sick calls — sick calls they don't answer — and lay down. Plaintiff isn't dealing with a simple headache; he's dealing with DVTs that can kill him in the blink of an eye, and medical treat it as though it's just a headache. Plaintiff also asked the doctor about the colonoscopy [test] done on July 27, 2023; that he's been asking medical about because of what the doctor said to him who done the test — and he said he'll check into that, as well as to why Plaintiff wasn't given a cane to assist him. Plaintiff explained how he was — still is — forced to walk, on swollen limbs, close to or maybe more a football field distance to visit, medical, and any other place up front when Officers, who are very aware of Plaintiff's serious medical needs, refuses to let him use the wheelchair to travel such a distance. Even on August 18, 2023 Plaintiff, leg/foot visibly swollen and officers aware of serious medical condition, asked to use the wheelchair to go on visit

and he was denied the use of the wheelchair — which is a common reply; yet if any other inmate with no known medical problems ask for wheelchair assistance its done without a second thought. Plaintiff has witnessed that being done on more than four different occasion. Plaintiff on the other hand has to slowly struggle to get to the visiting room — while others (inmates) has made their way to the visiting room. Even on the walk back, an officer — riding in a medical golf ~~kart~~ (kart) — passed by the struggling Plaintiff and picked up able body officers and rode them to the unit. There was no "calls" or reasons for the ride; therefore once Plaintiff finally made it to the unit the officers just "looked and stared" at plaintiff wearing smirks. Plaintiff just "wobbled" along and asked the tier officer why she didn't allow him to use the wheel chair. Tier officer made up a "bogs" to busy excuse, but one of the escort officers said because Plaintiff didn't have anything from medical saying he needed a wheelchair, Prison officials can be held liable even for following the advice of prison medical officials if it is obvious even to a layperson, that the prisoner is in need of hospitalization or other critical medical care. *McRaven v. Sanders*, 577 F.3d 974 (8th Cir. 2009). Prison Officials knew about Plaintiff's serious medical need and [still] the prison officials

failed to respond reasonably to it. Which is the Standard for deliberate indifference. *Estelle*, 429 U.S. at 104; *Gutierrez V. Peters*, 111 F.3d 1364, 1369 (7th Cir. 1997).

183. When Plaintiff filed ARPs asking who was responsible for the "unconstitutional" prison medical staff, and for the ARP Coordinator to come take photos of his leg/foot he received no reply to both questions; although on a ARP that was sent to the "IGO", Plaintiff was told that Maryland Department of Public Safety and Correctional Services (DPSCS) and Western Correctional Institution (WCI) wasn't responsible for medical because it was a private company. The Eighth Amendment protects Plaintiff's (prisoners) right to medical care. The Constitution guarantees "prisoners this right, even though it does not guarantee medical care to people outside of prison. The Supreme Court explained that this is because "An inmate must rely on prison authorities to treat his medical needs; if the authorities fail to do so, those needs will not be met." *Estelle V. Gamble*, 429 U.S. 97, 103 (1976). Under the Eighth Amendment, Plaintiff is entitled to medical care for his serious medical needs, and prison authorities are responsible for it. (See attached IGO ruling).

184. Each defendant is sued individually and in his and her Official Capacity; At all times mentioned in this Complaint each defendant acted

under the Color of State law.

IV. EXHAUSTION OF LEGAL REMEDIES

185. Plaintiff used the prisoner grievance procedure available at Western Correctional Institution to try and resolved the issues. See attached AR ps. Despite, some merited grievances and a IGO (Inmate Grievance Office) response declaring DPSCs and WCI unreliable for its prison medical staff. See attached response. The problems are ongoing with no end in sight, unless Plaintiff death would be the end results.

VI. LEGAL CLAIMS

186. Plaintiff reallege and incorporate by reference all of the herein, paragraphs 1 - thru - 185

187. Defendant, RN, Burnice L. Swan; as stated herein, action violated Plaintiff's rights under the Eighth Amendment to the United States Constitution, and caused Plaintiff pain, suffering, physical injury and emotional distress.

188. Defendant, NP, Janette Clark; as stated herein

action violated Plaintiff's rights under the Eighth Amendment to the United States Constitution, and caused Plaintiff pain, suffering, physical injury and emotional distress.

189. Defendant, RN, Karen J. Coleman; as stated herein, action violated Plaintiff's rights under the Eighth Amendment to the United States Constitution, and caused Plaintiff pain, suffering, physical injury and emotional distress.

190. Defendant, ARP Coordinator, Alicia Cartwright; as stated herein, action violated Plaintiff's rights under the Eighth Amendment to the United States Constitution, and caused Plaintiff pain, suffering, physical injury and emotional distress.

191. Defendant, MD, Asresahegn Betachew; as stated herein, action violated Plaintiff's rights under the Eighth Amendment to the United States Constitution, and caused Plaintiff pain, suffering, physical injury and emotional distress.

192. Defendant, nurse Stephine (last name unknown at this time); as stated herein, action violated Plaintiff's rights under the Eighth Amendment to the United States Constitution, and caused Plaintiff pain,

suffering, physical injury and emotional distress.

193. Defendant, nurse Peggy (whom inmates also refer to as Lewis—but last name unknown to Plaintiff); as stated herein, action violated Plaintiff's rights under the Eighth Amendment to the United States Constitution, and caused Plaintiff pain, suffering, physical injury and emotional distress.

194. Defendant, nurse Tara (last name unknown to the Plaintiff); as stated herein, action violated Plaintiff's rights under the Eighth Amendment to the United States Constitution, and caused Plaintiff pain, suffering, physical injury and emotional distress.

195. Defendant, ~~nurse~~ Amy L. Kelley; as stated herein, action violated Plaintiff's rights under the Eighth Amendment to the United States Constitution, and caused Plaintiff pain, suffering, physical injury and emotional distress.

196. Defendant, nurse Davis (again Plaintiff do not know her full name or even if thats a first or last name. All Plaintiff knows is that she wore many different stylish shoes (Tennis shoes) and had a tattoo which read "Dat way" on her arm.); as stated herein, action violated Plaintiff's rights under the Eighth Amendment to the United States Constitution, and caused him pain, suffering, physical injury and emotional distress.

197. Defendant, nurse Cole (last name unknown to Plaintiff); as stated herein, action violated Plaintiff's rights under the Eighth Amendment to the United States Constitution, and caused Plaintiff pain, suffering, physical injury and emotional distress.

198. Defendant, PharmD, Sheryl C. Nwankwo; as stated herein, action violated Plaintiff's rights under the Eighth Amendment to the United States Constitution, and caused Plaintiff pain, suffering, physical injury and emotional distress.

199. Defendants Corizon and Yes care are mentioned because DPSCS and WCI [Staffs] said they are not responsible for prison medical staff; as stated herein, action violated Plaintiff's rights under the Eighth Amendment to the United States Constitution, and caused Plaintiff pain, suffering, physical injury and emotional distress. (Therefore they are labeled as interest parties for the nursing staff. They "private" company mentioned herein).

200. Defendant, Warden, Ronald Shane Weber; as stated herein, action violated Plaintiff's rights under the Eighth Amendment to the United States Constitution, and caused Plaintiff, suffering, pain, physical injury and emotional distress.

201. Defendant, Assistance Warden, Bradley O. Butler;

as stated herein, action violated Plaintiff's rights under the Eighth Amendment to the United States Constitution, and caused Plaintiff pain, suffering, physical injury and emotional distress.

202. Plaintiff, respectfully want the Court to know that more defendants could be added to the list of defendants; and respectfully asked the Court to allow him to amend the Complaint if need be. All defendants, are being sued individually and in their official capacities.

VII. RELIEF SOLICITED

WHEREFORE, Plaintiff respectfully request that the Court enter Judgment:

203. Granting Plaintiff, Keith Darnell Kelly, a declaration that the acts and omissions described herein violate his rights under the Constitution and laws of the United States, and

204. A preliminary and permanent injunction ordering defendants, NP, Clark and et al., to cease their physical, psychological, and emotional distress, pain suffering and injuries towards Plaintiff. If not "granted" the defendants action, which violates Plaintiff's rights under the Eighth Amendment to the

United States Constitution could result in/to Plaintiff's death. DVTs are nothing to be played with or ignored — even doctor "Djahannir suffers from the same "serious, and could be deadly, medical need" as the Plaintiff.

KK 205. Granting Plaintiff, Keith Darnell Kelly, Compensatory damages in the amount of \$5.6 million against each defendant, jointly and severally.

206. Plaintiff, Keith Darnell Kelly, seek punitive damages in the amount of \$7.2 million; against each defendant, jointly and severally.

KK 207. Plaintiff, Keith Darnell Kelly, seeks a jury trial on all issues herein triable by ^[a] jury,

KK 208. Plaintiff also seeks recovery of his cost in the/this suit, and

KK ~~Any~~ Any[other] additional relief this/the Court deems just, necessary, proper and equitable.

Dated August 21, 2023

Respectfully submitted,
Keith Darnell Kelly, #449315/#4650880
Western Correctional Institution
13800 McMullen Highway, SW.
Cumberland, Maryland 21502

VERIFICATION

I have read the foregoing Complaint and hereby verify that the matters alleged and stated therein are true, except as to matters alleged on information and belief, and as to those, I believe them to be true. I Certify under penalty of perjury that the foregoing is true and correct to the best of my knowledge (knowledge).

Executed at [WCI] Cumberland, Maryland on August 21, 2023

Keith D. Kelly
Keith D. Kelly

Exhibit C

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

KEITH DARNELL KELLY,

Plaintiff,

v.

RN BURNICE SWARN, et al.

Defendant.

Civil Action No.: 1:23-CV-02432- BAH

**DEFENDANTS BURNICE MACE, NP, JANETTE CLARK, NP, ASRESAHEGN
GETACHEW, MD, NURSE STEPHANIE DAWSON, LNP, NURSE AMY L. KELLEY,
KAREN COLEMAN, RN'S MOTION TO STAY THIS ACTION UNLESS THE U.S.
BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF TEXAS IN *In Re Tehum
Care Services, Inc.* ISSUES AN ORDER PERMITTING THE PLAINTIFF TO FURTHER
PROSECUTE THE ACTION**

Burnice Mace, NP, Janette Clark, NP, Asresahegn Getachew, MD, Nurse Stephanie Dawson, LNP, Nurse Amy L. Kelley, Karen Coleman, RN (“Defendants”) respectfully request that the Court enter an Order staying this action, until the U.S. Bankruptcy Court for the Southern District of Texas (Houston Division) in *In Re Tehum Care Services, Inc.* (f/k/a Corizon Health, Inc.), Case No. 23-90086 (CML), (the “Bankruptcy Case”), issues an Order deciding the Omnibus Motion to Enjoin attached hereto as **Exhibit A** (the “Motion to Enjoin”)¹. As discussed below, the Motion to Enjoin seeks an Order from the Bankruptcy Court clarifying that actions brought against the Debtor’s former employees are enjoined consistent with the administration and intended consummation the now-effective Bankruptcy Plan, including the existing injunctions and releases therein. As the Bankruptcy Court has exclusive jurisdiction to determine issues related to the Plan and its injunctions, the present action should be stayed unless the Bankruptcy Court

¹ The Motion to Enjoin was served on the Plaintiff.

determines that it can continue. Defendants will promptly inform this Court of the Bankruptcy Court's Order.

Tehum Care Services, Inc. f/k/a Corizon Health, Inc. (the "Debtor") commenced a Chapter 11 case in the United States Bankruptcy Court for the Southern District of Texas. By Order dated March 3, 2025 [Doc. 2014], the Bankruptcy Court confirmed the First Modified Joint Chapter 11 Plan of Reorganization of the Tort Claimants' Committee, Official Committee of Unsecured Creditors and Debtor (the "Plan"). All capitalized terms herein have their meaning as defined in the Plan unless noted. The Plan is now effective.

Defendants are former employees of the Debtor. As the Motion to Enjoin explains, the Debtor and its former employees are included as "Released Parties" under the Plan. Plan, Art. I, ¶ 175. In furtherance of the Plan's consummation, the Plan contains certain injunctions and a Consensual Claimant Release that will fully release the Plaintiff's Causes of Action against the Defendants as long as the injunctions and Releases do not terminate or become void. *See* Plan, Art. IV.B.7 and IX.D. When the Plan became effective, and in compliance with any meet and confer requirements, Defendants sent a letter to Plaintiff requesting that the Plaintiff stipulate to stay this action consistent with the Plan. To date, Plaintiff has not agreed to so stipulate.

The Motion to Enjoin before the Bankruptcy Court requests that the Bankruptcy Court enter an Order confirming that all Plaintiffs with actions that will be released upon the Final Payment Date are enjoined from further prosecuting their actions as long as the injunctions and Releases do not terminate or become void. Amongst the existing injunctions discussed in the Motion to Enjoin, the Bankruptcy Court precluded and enjoined "actions to interfere with the implementation and consummation of the Plan." Plan, Art. IX.J. The Bankruptcy Court also retained "exclusive jurisdiction over all matters arising out of or related to the Chapter 11 Case

and the Plan pursuant to sections 105(a) and 1142 of the Bankruptcy Code.” Plan, Art. XII.A. The Bankruptcy Court’s exclusive jurisdiction includes jurisdiction to “issue and enforce injunctions, enter and implement other orders, or take such other actions as may be necessary or appropriate to restrain interference by any Entity with Consummation, implementation or enforcement of the Plan, including all settlements (including the Estate Party Settlement), releases, exculpations and injunctions provided for under the Plan.” See Plan, Art. XII.A.9.

Should the Plaintiff contend that the Confirmation Order and Plan does not enjoin this case from proceeding, the Plaintiff must litigate that dispute in the Bankruptcy Court. Plan, Art. XII.A. Accordingly, Defendants respectfully request that this Court enter an order staying this action until and unless the Bankruptcy Court issues an Order that permits it to continue.

Respectfully,

**MARKS, O’NEILL, O’BRIEN
DOHERTY & KELLY, P.C.**

/s/ Megan T. Mantzavinos

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Nurse Stephanie Dawson, LNP, Nurse Amy L.
Kelley, Karen Coleman, RN*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5th day of June, 2025, a copy of the foregoing was electronically filed and served on all parties in the case.

/s/ Megan T. Mantzavinos

Megan T. Mantzavinos