

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Ramsey Kettle,

Plaintiff,

v.

Otter Tail County, and in their individual and official capacities, Sheriff Barry J. Fitzgibbons, Beth Carlson, Brent Floden, Greg Anderson, Ashley Larson, Michelle Boeckers, Sheyenne Evavold-Toso, Alexander Hastings, Tanner Johnson, Kyle Lehmann, Mark Olson, Jara Parker, Kenneth Rasmusson, and Kaleb Rotering,

Defendants.

Case No.: 0:24-cv-04406

COMPLAINT

Jury Trial Demanded

Plaintiff Ramsey Kettle, through undersigned counsel, brings this complaint against the above-named Defendants demanding trial by jury of all claims. Over the course of multiple days, Defendants tortured Mr. Kettle by subjecting him to horrifying conditions. Defendants denied him water, including basic access to water within his cell, for 52 hours. Defendants starved Mr. Kettle by depriving him of food for nearly 60 hours. Defendants confined Mr. Kettle to segregation with no notice or opportunity to contest the placement, and with no assessment or consideration for the severe impacts such confinement would have on Mr. Kettle's mental health, despite the fact that Defendants were aware of his serious mental health conditions. Finally, Defendants compounded these egregious violations of Mr. Kettle's constitutional rights by forcing him to remain in solitary confinement in an unsanitary cell covered with human feces, the stench of which was so overwhelming Defendants moved those housed nearby so as to prevent them from becoming ill.

Instead of helping Mr. Kettle in any way, they mocked him, laughed at him, and left him to suffer. Defendants knowingly and intentionally took these actions to punish Mr. Kettle.

Most galling, Otter Tail County, including the Jail Administrator and various corrections officers, then took steps to cover up their intentional wrongdoing. They falsified documents, failed to document what they had done, and lied to the Minnesota Department of Corrections about what actually occurred.

Mr. Kettle alleges as follows:

STATEMENT OF CLAIMS

1. Mr. Kettle was subjected to extreme, punitive treatment by Defendants in February 2024 while he was held as a pretrial detainee in Otter Tail County Jail.

2. As a pretrial detainee, Mr. Kettle had not been convicted for, and was awaiting trial on, the crimes with which he was charged. Notably, those charges were later dismissed as without foundation and Mr. Kettle was released from custody.

3. But while Mr. Kettle was being held on those baseless charges, Defendants punished and abused him in egregious ways in violation of his constitutional rights and standards for basic human decency.

4. **First**, Defendants dumped Mr. Kettle into segregation (solitary confinement) upon his arrival at Otter Tail County Jail without any notice, or an opportunity to contest that placement, in violation of Mr. Kettle's rights to due process.

5. **Second**, Defendants punished Mr. Kettle with segregation without any assessment of his mental health or the impact that segregation would have on his serious mental illnesses. Mr. Kettle's mental illnesses were well-documented and known to the Defendants at that time. Their placement of Mr. Kettle into segregation served no legitimate governmental purpose and was unrelated to any legitimate correctional objective; it was purely punitive.

6. **Third**, Defendants' punishment of Mr. Kettle—a pretrial detainee—escalated to torture as they deprived him of basic human needs which are guaranteed to every inmate and pretrial detainee in Minnesota (and everywhere else in the United States and any civilized nation around the world). This egregious, unconstitutional punishment lasted for days. Mr. Kettle went without food and water for days, while Defendants—acting with deliberate indifference and punitive intent—subjected him to biohazardous and unsanitary conditions within his cell. Defendants withheld food, water, access to medical and mental health services, the chance to exercise outside his small cell, even the opportunity for a shower.

7. **Fourth**, Defendants knowingly attempted to cover-up their unconstitutional mistreatment by falsifying jail records, failing to adequately document their actions, and by misinforming the Minnesota Department of Corrections (“DOC”) about what actually happened. It was thanks only to an Otter Tail County Jail staff member who blew the whistle—and informed DOC through an ombudsman complaint—that Mr. Kettle’s shocking mistreatment was exposed beyond the walls of Otter Tail County Jail.

8. Mr. Kettle seeks to right those wrongs. He is entitled to significant money damages and equitable relief on account of Defendants violating his clearly established constitutional rights.

9. Mr. Kettle brings suit under 42 U.S.C. § 1983, the Americans with Disabilities Act (42 U.S.C. § 1210, *et seq.*), the Rehabilitation Act of 1973 (29 U.S.C. § 701 *et seq.*), Minn. Stat. § 3.736, the Minnesota Human Rights Act, Minnesota Statutes Chapter 363A, and the common law of Minnesota. Mr. Kettle also seeks compensatory and punitive damages and reasonable attorneys’ fees and costs, as authorized by 42 U.S.C. §§ 1983 and 1988.

JURISDICTION AND VENUE

10. This Court has jurisdiction over the claims in this Complaint pursuant to 28 U.S.C. § 1331, 42 U.S.C. § 1983, 42 U.S.C. § 1988, 42 U.S.C. § 1210, 29 U.S.C. § 701, and also the Minnesota common law claims through supplemental jurisdiction. *See* 28 U.S.C. § 1367.

11. Venue is proper because the acts complained of occurred exclusively within Otter Tail County, Minnesota.

PARTIES

12. Plaintiff Ramsey Kettle is an individual and resident of Minnesota. At the time of the acts complained of, Mr. Kettle was held as a pretrial detainee in Otter Tail County Jail, within Otter Tail County, Minnesota.

13. Defendant Otter Tail County is a political subdivision of the State of Minnesota that can sue and be sued in its own name.

14. Defendant Sheriff Barry J. Fitzgibbons was the Otter Tail County Sheriff at all times relevant during which time the conduct that is the subject of this Complaint occurred. He is sued in his official and individual capacities pursuant to Minn. Stat. § 466.01 *et seq.* and other applicable law.

15. Defendant Beth Carlson was the Otter Tail County Jail Administrator at all times relevant during which time the conduct that is the subject of this Complaint occurred. She is sued in her official and individual capacities pursuant to Minn. Stat. § 466.01 *et seq.* and other applicable law.

16. Defendant Brent Floden was the Otter Tail County Jail Assistant Jail Administrator at all times relevant during which time the conduct that is the subject of this Complaint occurred. Defendant Floden is sued in his official and individual capacities pursuant to Minn. Stat. § 466.01 *et seq.* and other applicable law.

17. Defendant Sergeant Greg Anderson is a correctional officer employed, at all times relevant, by Otter Tail County, who supervised work at the Otter Tail County Jail on the 0600–1800 shift on Saturday, February 10, 2024, and Sunday, February 11, 2024, during which time the conduct that is the subject of this Complaint occurred. He is sued in his official and individual capacities pursuant to Minn. Stat. § 466.01 *et seq.* and other applicable law.

18. Defendant Sergeant Ashley Larson is a correctional officer employed, at all times relevant, by Otter Tail County, who supervised work at the Otter Tail County Jail on the 1800–0600 shift on Saturday, February 10, 2024, and Sunday, February 11, 2024, during which time the conduct that is the subject of this Complaint occurred. She is sued in her official and individual capacities pursuant to Minn. Stat. § 466.01 *et seq.* and other applicable law.

19. Defendant Michelle Boeckers is a correctional officer employed, at all times relevant, by Otter Tail County, who worked at the Otter Tail County Jail on the 1800–0600 shift on Saturday, February 10, 2024, and Sunday, February 11, 2024, during which time the conduct that is the subject of this Complaint occurred. She is sued in her official and individual capacities pursuant to Minn. Stat. § 466.01 *et seq.* and other applicable law.

20. Defendant Sheyenne Evavold-Toso was a correctional officer employed, at all times relevant, by Otter Tail County, who worked at the Otter Tail County Jail on the 0600–1800 shift on Saturday, February 10, 2024, and Sunday, February 11, 2024, during which time the conduct that is the subject of this Complaint occurred. She is sued in her official and individual capacities pursuant to Minn. Stat. § 466.01 *et seq.* and other applicable law.

21. Defendant Alexander Hastings is a correctional officer employed, at all times relevant, by Otter Tail County, who worked at the Otter Tail County Jail on the 1800–0600 shift on Saturday, February, 10, 2024, and Sunday, February 11, 2024, during which time the conduct

that is the subject of this Complaint occurred. He is sued in his official and individual capacities pursuant to Minn. Stat. § 466.01 *et seq.* and other applicable law.

22. Defendant Tanner Johnson is a correctional officer employed, at all times relevant, by Otter Tail County, who worked at the Otter Tail County Jail on the 1800–0600 shift on Saturday, February 10, 2024, and Sunday, February 11, 2024, during which time the conduct that is the subject of this Complaint occurred. Officer Johnson also worked the 1800-0600 shift on Friday, February 9, 2024, when Mr. Kettle was booked into the Otter Tail County Jail. He is sued in his official and individual capacities pursuant to Minn. Stat. § 466.01 *et seq.* and other applicable law.

23. Defendant Kyle Lehmann is a correctional officer employed, at all times relevant, by Otter Tail County, who worked at the Otter Tail County Jail on the 0600–1800 shift on Saturday, February 10, 2024, and Sunday, February 11, 2024, during which time the conduct that is the subject of this Complaint occurred. He is sued in his official and individual capacities pursuant to Minn. Stat. § 466.01 *et seq.* and other applicable law.

24. Defendant Mark Olson is a correctional officer employed, at all times relevant, by Otter Tail County, who worked at the Otter Tail County Jail on the 0600–1800 shift on Saturday, February 10, 2024, and Sunday, February 11, 2024, during which time the conduct that is the subject of this Complaint occurred. He is sued in his official and individual capacities pursuant to Minn. Stat. § 466.01 *et seq.* and other applicable law.

25. Defendant Jara Parker is a correctional officer employed, at all times relevant, by Otter Tail County, who worked at the Otter Tail County Jail on the 1800–0600 shift on Saturday, February 10, 2024, and Sunday, February 11, 2024, during which time the conduct that is the

subject of this Complaint occurred. She is sued in her official and individual capacities pursuant to Minn. Stat. § 466.01 *et seq.* and other applicable law.

26. Defendant Kenneth Rasmusson is a correctional officer employed, at all times relevant, by Otter Tail County, who worked at the Otter Tail County Jail on the 1800–0600 shift on Saturday, February 10, 2024, and Sunday, February 11, 2024, during which time the conduct that is the subject of this Complaint occurred. He is sued in his official and individual capacities pursuant to Minn. Stat. § 466.01 *et seq.* and other applicable law.

27. Defendant Kaleb Rotering is a correctional officer employed, at all times relevant, by Otter Tail County, who worked at the Otter Tail County Jail on the 0600–1800 shift on Saturday, February 10, 2024, and Sunday, February 11, 2024, during which time the conduct that is the subject of this Complaint occurred. He is sued in his official and individual capacities pursuant to Minn. Stat. § 466.01 *et seq.* and other applicable law.

28. All Defendant correctional officers, jail administrators, law enforcement officers, agents and/or employees were, at all times relevant, acting under the color of state law and within the scope of their duties and employment.

FACTS

I. From February to March 2024, Mr. Kettle Was Held at the Otter County Jail as a Pretrial Detainee on Charges that were Later Dismissed as Lacking Foundation.

29. Mr. Kettle is a 33 year old citizen of the White Earth Nation and a lifelong Otter Tail County resident.

30. Mr. Kettle has been diagnosed with several serious mental illnesses.

31. Over the course of his life, Mr. Kettle has been housed at the Otter Tail County Jail multiple times, and he is known to the Individual Defendants.

32. The Individual Defendants have been aware of Mr. Kettle's serious mental health conditions for many years, and those conditions are well-documented in his records.

33. On March 25, 2022, Mr. Kettle was convicted of making terroristic threats and sentenced to 30 months, with credit for 231 days already served.

34. Mr. Kettle served his time for that March 2022 conviction at Rush City Correctional Facility in Rush City, Minnesota.

35. On February 9, 2024, Mr. Kettle was scheduled to be released from Rush City Correctional Facility after serving his full sentence for the March 2022 conviction.

36. Instead of being released, Mr. Kettle learned that he had been charged—that same day, the day of his release—with four counts of aggravated witness tampering stemming from his March 2022 conviction. Rather than going home on February 9, 2024, as he had anticipated for nearly two years, he was transferred to Otter Tail County Jail to await trial on these new charges.

37. The new charges were unfounded and intended solely to keep Mr. Kettle incarcerated. On April 24, 2024, Minnesota State District Court Judge Johnathan Judd dismissed those charges against Mr. Kettle as lacking foundation and Mr. Kettle was released from detention.

38. But during the time Mr. Kettle was held as a pretrial detainee at the Otter County Jail for these unfounded charges, Defendants subjected him to severe, deplorable, and utterly intolerable human rights abuses in violation of the federal constitution, federal statutes, the Minnesota constitution, Minnesota statutes and common law, and common human decency.

II. Defendants Violated Mr. Kettle's Constitutional Rights By Ignoring Protections Provided Under Federal and Minnesota Law, BOP and State Regulations, Their Own Training, and The Otter Tail County Sheriff's Office Custody Manual's Policies.

39. Federal and state law provide constitutional minimum requirements that all correctional facilities must maintain. These minimum requirements provide that detained

individuals have their constitutional rights protected; they prohibit punishment of pre-trial detainees; they require minimum constitutional standards of care for nutrition, sanitation, and exercise. Lastly, these requirements are designed to protect both the mental and physical health of detained individuals by placing both process requirements on correctional facilities as well as reporting requirements.

Defendants violated these rights by, among other things, failing to properly train staff on the required protections codified into the Minn. Rules and even the Otter Tail policies.

40. To meet these requirements, the Otter Tail County Jail has a series of policies, contained in the Otter Tail County Sheriff's Office Custody Manual, that govern detention of pretrial detainees and inmates at the Otter Tail County Jail requiring medical screening of inmates on arrival for mental health needs, conduct well-being checks, provide basic needs, and not deprive detainees of basic needs as a form of punishment. Defendants were not properly trained or widely and knowingly ignored any training for the sake of punishing Mr. Kettle.

Federal and Minnesota law require Otter Tail defendants to conduct well-being checks to ensure inmate safety while in custody.

41. The Federal Constitution requires well-being checks to protect inmates from harm. Jails are required to be more vigilant for individuals in segregation or mental health holding. Similarly, the Otter Tail County Custody Manual requires well-being checks to determine whether a detainee is experiencing stress or trauma, and requires a visual observation of the detainee as part of the well-being checks. Persons performing the well-being checks must accurately document the well-being checks and the condition of the inmates.

The Constitution prohibits the punishment of pre-trial detainees, such as Mr. Kettle, requires that due process protections be instituted before detainees may be placed in segregated housing, and prevent Defendants from withholding life-sustaining food and water.

42. Federal law, Minnesota law, the Otter Tail County Custody Manual and Otter Tail County Jail policies require that detainees be provided basic needs—including food, water, mental health and medical treatment, and a cell free of biohazardous material—that cannot be withheld as punishment. *See* Minn. R. §§ 2911.3900, 2911.4100, 2911.2750, 2911.3100, subp. 7.

43. Ignoring these requirements and the protections afforded to Mr. Kettle under Federal and State law, Defendants (1) deprived Mr. Kettle of food and water, (2) deprived Mr. Kettle of a daily shower, (3) deprived Mr. Kettle of daily exercise, (4) deprived Mr. Kettle of a cell free of biohazardous materials, and (5) failed to document certain deprivations.

III. Mr. Kettle Was Immediately Punished Upon His Arrival To The Otter County Jail By Being Placed In Segregation Without Assessment Of Or Accommodation For His Serious Mental Illnesses.

44. When Mr. Kettle arrived at the Otter Tail County Jail on February 9, 2024, as a pretrial detainee who was presumed innocent and may not be punished, Otter Tail County Jail employees told him that he had “outstanding disciplinary time” from when he was previously housed at Otter Tail County Jail in 2022, nearly two years prior.

45. This disciplinary time—60 days in segregation—had been assigned to Mr. Kettle in 2022, but he was sentenced and moved to Rush City Correctional Facility before he completed the full 60 days.

46. Accordingly, under the Otter Tail County Jail policy—endorsed by Defendant Sheriff Barry J. Fitzgibbons—Otter Tail County Jail employees placed Mr. Kettle in the restrictive housing unit (Cellblock A), in a segregation cell (Cell A-101), to complete the balance of his held-over disciplinary time.

47. Mr. Kettle did not receive a mental health evaluation by a qualified mental health professional at the time of his booking.

48. Rather, on information and belief, Mr. Kettle was briefly assessed by Corrections Officer Tanner Johnson.

49. Further, there was no assessment completed concerning how segregation would impact Mr. Kettle given his serious mental illnesses, and there were no accommodations made to account for those disabilities, before Mr. Kettle was placed in segregation.

50. Nor was Mr. Kettle afforded an opportunity to contest his placement in segregation.

IV. Defendants Refused to Return Mr. Kettle’s Personal Medical Paperwork, Mistakenly Provided Him with Another Detainee’s Files, and Mr. Kettle Responded by Acting Out.

51. Correctional officers at Otter Tail County Jail work 12-hour shifts, from 6:00 a.m. until 6:00 p.m., and from 6:00 p.m. until 6:00 a.m. the following morning. There are only two shifts (day shift and night shift) for each 24-hour period.

52. “Defendant Officers,” as used herein, include both the Defendant corrections officers and the Defendant sergeants: Sergeant Greg Anderson, Sergeant Ashley Larson, Michelle Boeckers, Sheyenne Evavold-Toso, Alexander Hastings, Tanner Johnson, Kyle Lehmann, Mark Olson, Jara Parker, Kenneth Rasmusson, and Kaleb Rotering.

53. At or around 6:53 a.m. on Saturday, February 10—the day after Mr. Kettle arrived at Otter Tail County Jail as a pretrial detainee and was placed into segregation—Defendant Officers gave Mr. Kettle a tray with a single serving of juice and an individual carton of milk. They did not give him any food.

54. Later that morning, Mr. Kettle requested the return of his legal paperwork which he had brought with him from Rush City to Otter Tail County Jail. Otter Tail County Jail

employees had confiscated the paperwork when Mr. Kettle was admitted to the Otter Tail County Jail. At the time, this documentation comprised some of Mr. Kettle's only worldly possessions and detailed deeply personal information. The paperwork was important to him.

55. Instead of bringing Mr. Kettle his paperwork, a Defendant Officer brought Mr. Kettle paperwork belonging to another person. Mr. Kettle was immediately concerned that his personal and private paperwork (including legal papers with private medical information) was missing or had been delivered to another detainee, just as another detainee's paperwork had been delivered to him. Mr. Kettle was deeply worried that his private papers were being indiscriminately shared with other people without his knowledge or permission.

56. Mr. Kettle immediately asked for his correct paperwork. A Defendant Officer refused. Mr. Kettle repeated his request to Defendant Officers, but they ignored him.

57. As Defendant Officers continued to ignore Mr. Kettle's concerns regarding his private records, Mr. Kettle experienced significant mental distress and felt that he needed to get their attention. In protest, at or around 10:27 a.m. on Saturday, February 10, 2024, Mr. Kettle smeared his feces on the door, including on the door window, of his cell.

58. The small window to Mr. Kettle's cell was completely obscured as a result.

59. Shortly thereafter, at or around 10:49 a.m., Mr. Kettle threw his feces under the door of his cell, out into a common area.

60. Defendant Officers also ignored these pleas for help, and instead of returning Mr. Kettle's paperwork to him, they punished Mr. Kettle by torturing him as detailed below.

61. Across all of February 10 and 11, 2024—and for nearly 52 hours—Defendant Officers left Mr. Kettle in a biohazardous, contaminated cell and did not provide him any food,

adequate hydration, any opportunity to shower, any opportunity to exercise, or any medical or mental health attention, despite obvious signs that Mr. Kettle was experiencing mental distress.

V. As Punishment for Mr. Kettle’s Mental Health Crisis, Defendant Officers Withheld Food and Water, Any Opportunity to Shower, and Daily Exercise Without any Assessment by Medical Professionals—for Nearly 52 Hours—While in Segregation.

*Mr. Kettle Was Tortured During the February 10 Day Shift
(6:00 a.m. to 6:00 p.m. Feb. 10)*

62. In retaliation for Mr. Kettle’s actions, in deliberate disregard for his well-being, and without any consideration of his serious mental illnesses and the fact that he was exhibiting a mental breakdown, Defendant Officers continued to punish and torture Mr. Kettle.

63. Defendant Officers turned off the water to Mr. Kettle’s cell almost immediately after he smeared feces in his cell, thereby eliminating access to any water Mr. Kettle could have used to drink, clean himself, clean his cell, or flush the toilet. Defendant Officers did not document this punishment in any written report.

64. According to an Inmate Log Report, Defendant Officer Rotering performed a Well-Being Check on Mr. Kettle at 10:44 a.m. on February 10. Even though there were feces contaminating Mr. Kettle’s cell and the surrounding area and the window of the cell was obscured, Officer Rotering made no note of these conditions and reported that Mr. Kettle was “OK.”

65. According to an Inmate Log Report, Defendant Officer Sergeant Anderson performed a well-being check on Mr. Kettle at 11:12 a.m. on February 10, and, in apparent disregard for the feces contaminating Mr. Kettle’s cell and the surrounding area, reported Mr. Kettle was “OK.”

66. At or around 11:13 a.m. on February 10, 2024, Defendant Officers documented that they would be withholding food and water from Mr. Kettle as punishment until he cleaned his cell, indicating “No lunch given.”

67. According to an Inmate Log Report, Defendant Officer Rotering performed a well-being check on Mr. Kettle at 12:02 p.m. on February 10, and reported Mr. Kettle was “OK.”

68. At or around 12:04 p.m. on February 10, Defendant Officers documented that they passed lunch trays to inmates, but they did not give a lunch tray to Mr. Kettle.

69. According to an Inmate Log Report, Defendant Officer Sergeant Anderson inspected Mr. Kettle’s cell at 12:29 p.m. on February 10, but there is no record indicating that the cell was covered in biohazard materials. At 12:30 p.m., Sergeant Anderson noted that Mr. Kettle was “OK.” According to an Inmate Log Report, at 4:51 p.m. on February 10, 2024, Defendant Officer Lehmann reported that Mr. Kettle “Declined Meal.” But five minutes later, according to the same log, Defendant Officers documented that they were again intentionally withholding food from Mr. Kettle as punishment, stating that they “informed [Mr. Kettle] that he need [sic] to clean his cell before he could receive his meal.”

70. According to an Inmate Log Report, Defendant Officers claim to have performed twenty (20) separate well-being checks on Mr. Kettle during the February 10 day shift between 10:44 a.m. and 6:00 p.m. Each of the five Defendant Officers on that February 10 day shift—Evavold-Toso, Lehmann, Olson, Rotering, and Sergeant Anderson—conducted at least one of these perfunctory and hastily conducted well-being checks. Defendant Officers reported over and over again that Mr. Kettle was “OK,” all the while knowing they had eliminated his access to water, had not given him any food or water during that time, and had forced him to remain in biohazardous conditions.

71. In Pass On Logs relating to the transition from the February 10 day shift (6:00 a.m. to 6:00 p.m.) to the February 10 night shift (6:00 p.m. to 6:00 a.m., February 11), Defendant Officers showed their callous indifference to Mr. Kettle’s plight (and to the stench permeating

throughout the building) in reporting that “After a quiet, non eventful start to our morning, Kettle decided to paint his cell, door and window with his feces. He has been told that he needs to clean it up but he refuses. The vapo rub is in the middle drawer of the LU desk.”

72. The individuals housed in a medium restrictive unit adjacent to Mr. Kettle’s segregation cell were negatively impacted by the unsanitary conditions created by Defendant Officers’ refusal to clean the biohazard material and decision to walk through it, tracking it throughout the facility.

73. According to the Pass On Logs from the February 10 day shift to the night shift, Defendant Officers reported that “[d]ue to smell radiating into H block,” they allowed other inmates to move to other cells, and provided masks to other inmates.

74. Upon information and belief, at least one person in the adjacent medium restrictive unit became physically ill from the stench. Even though those in the medium restrictive unit were also suffering physical ailments, Defendant Officers did not clean up the biohazard material. Defendant Officers distributed masks to the persons housed in the medium restrictive unit and continued to spread biohazard material throughout the facility.

75. Most of the Defendant Officers wore masks when they approached Mr. Kettle’s cell, on account of the odor created by the biohazard material they had left both in and around Mr. Kettle’s cell.

76. Meanwhile, Defendant Officers consistently denied Mr. Kettle water, food, the opportunity to exercise, the opportunity to shave and/or shower, and the required medical examination for inmates in segregation.

***Mr. Kettle Experienced Torture During the February 10 Night Shift
(6:00 p.m. Feb. 10 to 6:00 a.m. Feb. 11)***

77. At 6:00 p.m. on Saturday, February 10, 2024, the day shift clocked out, and six new Defendant Officers—Boeckers, Hastings, Johnson, Parker, Rasmussen, and Sergeant Larson—began their February 10 night shift.

78. Despite the shift change, in which five new correctional officers and one new sergeant became responsible for those incarcerated at the Otter Tail County Jail, not a single person satisfied their obligation to meet Mr. Kettle’s constitutionally-recognized, basic human needs. No one offered Mr. Kettle water or food, no one provided Mr. Kettle with medical assistance, no one turned the water to Mr. Kettle’s cell back on, and no one addressed the biohazard material in Mr. Kettle’s cell.

79. During the February 10 night shift, at 6:31 p.m. on February 10, Defendant Officers observed Mr. Kettle “licking the feces off the cell window.” None of the Defendant Officers responded to this clear sign of mental and physical distress by providing food, water, medical, or mental health care for Mr. Kettle. Nor did they remove the biohazard from his cell or the surrounding area outside of his cell.

80. At 10:45 p.m. on February 10, Defendant Officers observed that Mr. Kettle “spent the first few hours of the [night] shift yelling and banging on the door.” Still, none of the Defendant Officers offered Mr. Kettle aid.

81. Throughout the day and night of February 10, 2024, and into the morning of February 11, 2024, Mr. Kettle repeatedly requested water, food, a shower, and an hour of exercise. Eleven different Defendant Officers, from both the day and night shifts and including both supervising sergeants, ignored each and every one of Mr. Kettle’s pleas.

82. According to an Inmate Log Report, Defendant Officers claim to have performed twenty-eight (28) well-being checks on Mr. Kettle during their February 10 night shift. Each of the six Defendant Officers on the February 10 night shift—Boeckers, Hastings, Johnson, Parker, Rasmussen, and Sergeant Larson—conducted at least one of these well-being checks. In each and every one of these perfunctory and hastily conducted well-being checks, Defendant Officers reported that Mr. Kettle was “OK” and did not make any note of the conditions of his cell, or of the fact that Defendant Officers had withheld food and water from Mr. Kettle.

***Mr. Kettle Was Tortured During the February 11 Day Shift
(6:00 a.m. to 6:00 p.m. Feb. 11)***

83. At 6:00 a.m. on Sunday, February 11, 2024, Defendant Officers Boeckers, Hastings, Johnson, Parker, Rasmussen, and Sergeant Larson completed their night shift, and Defendant Officers Evavold-Tosso, Lehmann, Rotering, Olson, and Sergeant Anderson began the February 11 day shift. These are the same individual Defendant Officers who worked the February 10 day shift the previous day.

84. Throughout this second day shift from 6:00 a.m. – 6:00 p.m. on Sunday, February 11, well more than 24 hours since Mr. Kettle had been given food to eat, access to running water, or experienced a sanitary and safe environment free from biohazard material, Defendant Officers continued to withhold from Mr. Kettle—as punishment—food, water, and access to basic rights such as exercise, a chance to shower, and medical attention.

85. At or around 4:20 p.m., Defendant Officers falsely and fraudulently documented that Mr. Kettle would receive a bottle of water at tray pass. The Department of Corrections Inspection and Enforcement Unit later confirmed that no such bottle of water was provided to Mr. Kettle.

86. At some point during the February 11 day shift, because he was so thirsty and dehydrated, Mr. Kettle attempted to drink from his toilet, which was filled with urine and feces because the water to his cell had been shut off by Defendant Officers; again, Defendant Officers did nothing to provide him with adequate care or access to potable water.

87. Defendant Officers' callous and total disregard for Mr. Kettle's well-being was made clear over and over again. On one occasion over the 48-hour period, Mr. Kettle asked Defendant Officer Evavold-Tosso for water and said he needed water to survive, and she responded "I wonder why that is," or words to that effect, and refused his request.

88. According to an Inmate Log Report, Defendant Officers claim to have performed twenty nine (29) well-being checks on Mr. Kettle during their February 11 day shift. Each of the five Defendant Officers on the February 11 day shift—Evavold-Toso, Lehmann, Olson, Rotering, and Sergeant Anderson—conducted at least one of these well-being checks. In each and every one of these perfunctory and hastily conducted well-being checks, Defendant Officers reported that Mr. Kettle was "OK" and made no note of the conditions of Mr. Kettle's cell or of the fact that Defendant Officers had denied Mr. Kettle food or water.

***Mr. Kettle Was Tortured During the February 11 Night Shift
(6:00 p.m. Feb. 11 to 6:00 a.m. Feb. 12)***

89. At 6:00 p.m. on Sunday, February 11, 2024, Defendant Officers Evavold-Tosso, Lehmann, Olson, Rotering, and Sergeant Anderson completed their day shift, and Defendant Officers Boeckers, Hastings, Johnson, Parker, Rasmussen, and Sergeant Larson began the February 11 night shift. These are the same individual Defendant Officers who worked the February 10 night shift the previous day.

90. Throughout this second night shift from 6:00 p.m. February 11 to 6:00 a.m. on February 12, nearly 48 hours since Mr. Kettle had been given food to eat, access to running water,

or experienced a sanitary and safe environment free from biohazard material, Defendant Officers continued to withhold from Mr. Kettle—as punishment—food, water, and access to basic rights such as exercise, a chance to shower, and medical attention.

91. At or around 6:31 p.m. on Sunday, February 11, 2024, approximately 24 hours after the initial instance where officers observed Mr. Kettle lick his feces, Defendant Officers documented that they now saw Mr. Kettle actually eating his own feces. Defendant Officers documented that Mr. Kettle said he was so hungry “I’m eating my own shit.”

92. Although they had witnessed Mr. Kettle eating his own feces, a biohazard material contaminating his cell, Defendant Officers did not remove the biohazard material and they did not provide Mr. Kettle with food or water. They also did not provide Mr. Kettle with a shower to rid himself of the biohazard material contaminating his body.

93. Moreover, although they saw Mr. Kettle eat his feces a second time since they had started their punishment of him, at no time did Defendant Officers contact the on-call medical provider or inform or update the health authority of potential medical or mental health crisis. According to an Inmate Log Report, Defendant Officers performed twenty eight (28) well-being checks on Mr. Kettle during their February 11 night shift. Each of the six Defendant Officers on the February 11 night shift—Boeckers, Hastings, Johnson, Parker, Rasmussen, and Sergeant Larson—conducted at least one of these well-being checks. In each and every one of these perfunctory and hastily conducted well-being checks, Defendant Officers reported that Mr. Kettle was “OK” and did not make any note of the conditions of his cell, or of the fact that Defendant Officers had denied Mr. Kettle food and water.

94. Further, according to Pass on Logs, Defendant Officers documented that Kettle was “sleeping” and “quiet all night” but, because of his obscured window, Defendant Officers could not have actually seen and verified Mr. Kettle’s well-being.

Mr. Kettle Was Tortured for Nearly 52 Hours With Direct Knowledge By—and At the Direction Of—County Policymakers Like Acting Jail Administrator Floden

95. Acting Jail Administrator Brent Floden gave Defendant Officers the initial directive to withhold Mr. Kettle’s basic needs and to leave him in the biohazard material. Although, after the torture was complete, Acting Jail Administrator Floden documented that he had instructed Defendant Officers not to withhold a meal for punitive purposes, upon information and belief, he in fact did instruct Defendant Officers to withhold Mr. Kettle’s meal as punishment, and they followed his directive.

96. On the Pass on Log created at the end of the February 11 day shift, Defendant Officers confirmed that Mr. Kettle’s “supper was with held [sic] *per Lt. Floden.*” (emphasis added.)

97. Defendant Floden documented that he was responsible for restricting Mr. Kettle’s access to daily exercise, noting that he told Defendant Officers “[h]e doesn’t deserve it” and that he instructed Defendant Officers to “[l]eave him in lockdown.”

98. Upon information and belief, Defendants Carlson and Fitzgibbons also had knowledge over the weekend of February 10 and 11 of Defendant Officers’ cruel and inhumane mistreatment of Mr. Kettle and permitted Defendant Officers to continue their torture and punishment of this pretrial detainee held in segregation without food, water, exercise, sanitary conditions, medical assessment, or accommodation for his serious mental illnesses.

99. Mr. Kettle held out hope—in vain—that someone would relent and put an end to his torture on Saturday, February 10, on Sunday, February 11, and on into the morning of Monday,

February 12. But each time a Defendant Officer walked by—more than 100 times across nearly 52 hours—they denied his basic requests for food, water, a shower, and exercise.

100. In each and every one of the 100 well-being checks, Defendant Officers did not make any attempt to actually determine and ensure that Mr. Kettle was well. Instead, they hastily and perfunctorily conducted these checks for the sole purpose of marking in the log that Mr. Kettle was “OK,” all the while being well aware that that he was being tortured at their hands as punishment.

101. Every officer on duty during the more than 52-hour period, at every level of the Otter Tail County Jail, was in on the decision to punish Mr. Kettle by withholding food and daily exercise, among other basic needs, in contravention of Federal and state law, including constitutional requirements.

***Mr. Kettle Finally Experiences Reprieve from Punishment
During the February 12 Day Shift***

102. At 6:00 a.m. on Monday, February 12, 2024, there was another shift change at the Otter Tail County Jail. A new group of Officers (the “weekday officers”) who had not worked any of the weekend shifts during which Mr. Kettle was tortured and abused, began their shift.

103. As the weekday officers came on shift, a weekday officer asked Mr. Kettle what was going on, or words to that effect. Mr. Kettle told him that he had not eaten for two days, that he was dehydrated, and that he had a severe headache.

104. At or around 6:54 a.m., more than 60 hours since Mr. Kettle had been provided solid food, a weekday officer gave Mr. Kettle milk and juice.

105. Although they left Mr. Kettle in his contaminated cell for approximately two more hours, the weekday officers eventually allowed him to shower and clean himself.

106. Soon after, the weekday officers finally allowed Mr. Kettle to eat solid food and drink water, at around 9:30 a.m. on February 12, 2024.

107. After he was finally permitted to eat and drink, Mr. Kettle became violently sick and threw up, but at that time he was not given access to medical professionals to account for his malnourished condition.

108. When Mr. Kettle finally was given access to a medical professional on February 13, 2024, the correctional staff did not notify the provider of what he had endured.

VI. Defendants' Knew—or Should Have Known—that Their Illegal Conduct Violated Basic Constitutional Requirements, Federal and State Law, and Minnesota Department of Correction Rules.

109. Defendant Officers knew that Department of Corrections Rules are required to meet constitutional minimums to provide for the safety and well-being of detained individuals.

110. Defendants knew Mr. Kettle's constitutional protections required them to provide the most basic needs to any human—food, water, a clean cell fit for human detention, medical care, mental health care, exercise, well-being checks, and personal property. Defendants knew that depriving Mr. Kettle of any of those basic needs to punish him would violate his constitutional rights. The Minnesota Department of Correction Rules require no less.

VII. The Otter Tail County Jail Administrator Attempted to Conceal the Punishment and Mistreatment of Mr. Kettle to Avoid Accountability

111. Upon information and belief, Sheriff Barry Fitzgibbons and Jail Administrator Beth Carlson knew of the ongoing mistreatment of Mr. Kettle at or immediately after the time it occurred.

112. Acting Jail Administrator Brent Floden also knew of the ongoing mistreatment and, in fact, directed Defendant Officers to withhold meals and exercise as punishment and to leave Mr. Kettle in the cell covered in biohazard material.

113. On Monday morning, February 12, Defendants Fitzgibbons, Carlson, and Floden began to cover up that Defendant Officers had tortured and severely abused Mr. Kettle. They failed to adequately record the condition of his cell before it was later cleaned by weekday officers, hiding from review the impossibility of seeing through the window into the cell.

114. Despite the obvious severity of Mr. Kettle's mistreatment from February 10 to February 12—including Defendant Officers denying him food and water for nearly 52 hours spanning six different meals—Jail Administrator Carlson did not report the actions of Defendant Officers to the DOC's Inspection and Enforcement Unit (I&E) until February 20, 2024, eight days after the incidents.

115. When Jail Administrator Carlson did finally report to I&E, she falsely represented that Mr. Kettle had missed only three meals over the weekend after smearing feces and refusing to clean it up.

116. Carlson was aware this report was inaccurate, because jail staff had documented that Mr. Kettle was denied six meals as punishment. Carlson also knew that Defendant Officers had denied Mr. Kettle water, which was well documented. And she knew that Defendant Officers left Mr. Kettle in biohazard material, without an opportunity to exercise or shower. She also knew that Mr. Kettle had exhibited signs of severe mental and physical distress because of the deprivations and punishment, and that Defendant Officers had not relented and had not obtained medical or mental health care for him. She did not report any of this to I&E.

117. On February 20, Jail Administrator Carlson further reported to I&E that she had launched an internal investigation, and had engaged an outside law firm. In reliance on this representation, I&E did not investigate the incident at that time.

118. In reliance on the substance of Jail Administrator Carlson's reports about the severity of the harm done to Mr. Kettle and the internal investigation, I&E did not at that time investigate the events of February 10-12.

VIII. Defendant Officers' Punishment and Torture of Mr. Kettle Only Came to Light After a Whistleblower Officer Reported the Misconduct Through Independent Channels.

119. Because of Jail Administrator Carlson's failure to hold Defendant Officers accountable, coupled with her failure to take action to prevent future abusive conduct by Defendant Officers (and her cover up of the egregious misconduct), on or about February 28, 2024, an Otter Tail County Jail corrections officer filed a complaint with the Ombudsperson for the Department of Corrections (the "Whistleblower Complaint").

120. The February 28 Whistleblower Complaint "expressed concern for the treatment of [Mr. Kettle] and the lack of follow up from Otter Tail County Jail administrators." (*See Exhibit A.*)

121. Until the Whistleblower Complaint, no one had told I&E that the Defendants had denied Mr. Kettle six consecutive meals and water for a period of nearly 52 hours, because Jail Administrator Carlson had lied and concealed those facts.

122. The Whistleblower Complaint "provided additional disturbing information about the Incident beyond what had been originally provided to the DOC from the Jail Administrator, including more flagrant violations of minimum standards." (*Id.*) Again, this information had been misrepresented and withheld by Defendant Carlson.

123. The I&E inspector interviewed Mr. Kettle on or around March 13, 2024, and Mr. Kettle's report "largely matched what was previously reported to the DOC in [the Whistleblower Complaint]..."

124. From the weekend during which Defendant Officers tortured Mr. Kettle, until March 14, 2024, Defendant Officers' unlawful actions, Mr. Kettle's constitutional rights, went unexamined and unpunished. Defendant Sheriff Fitzgibbons, Jail Administrator Carlson, and other senior staff did nothing to address Defendant Officers' failure to comply with the most basic rules regarding Mr. Kettle's human and constitutional rights. Instead, they attempted to conceal these violations to avoid accountability.

IX. Minnesota Department of Corrections Inspector General Strips Otter Tail County Jail of its Class III license because Otter Tail County had failed to adequately train its staff.

125. Fortunately, the misconduct came to light due to the Whistleblower Complaint. After completing the I&E investigation, on March 14, 2024, Gregory Huska, Inspector General of the Department of Corrections Inspection and Enforcement Unit, issued a Conditional License Order ("Conditional License") for the Otter Tail County Jail. (*See Exhibit A.*)

126. The DOC found that Defendants' actions were a failure of training. The Conditional License found that "given the egregiousness of the health and safety violations ... Otter Tail County Jail staff are in need of refresher/remedial training. *See* Minn. R. 2911.1300 (requiring custody staff to complete minimum training on topics including supervision of inmates; response to resistance regulations and tactics; and rights and responsibilities of inmates); Minn. R. 2911.1350 (requiring the facility administrator to cooperate with the health authority to provide medical training to staff on topics including recognition of signs and symptoms of mental illness.)."

127. Inspector General Huska sent the Conditional License to Otter Tail County Sheriff Barry Fitzgibbons, Otter Tail County Jail Administrator Beth Carlson, and Otter Tail County Commissioner Kurt Mortenson.

128. The Conditional License found Otter Tail County Jail had failed to substantially conform to the minimum standards required under Minnesota Rules chapter 2911, and that the Jail subsequently failed to make satisfactory progress toward substantial conformance with those standards.

129. The Conditional License stated that “Otter Tail County Jail’s failure to comply with these legal requirements has contributed to conditions that have the potential to pose an imminent risk of life-threatening harm or serious physical injury to individuals confined or incarcerated in the facility if left uncorrected.”

130. The Sheriff and Jail Administrator had failed to adequately train Defendant Officers regarding minimum standards in a number of critical areas, including the rights of inmates and signs and symptoms of mental illness. The Conditional License required that all staff receive refresher/remedial training, and set a March 28, 2024 deadline for the Otter Tail County Jail to create a training plan and timeline to ensure that all staff received that training.

131. The Conditional License also required that the training plan address refresher/remedial training “regarding supervision of inmates; response to resistance and tactics; rights of inmates; medical training/signs and symptoms of illness and knowledge of when to take further action; recognition of signs/symptoms of mental illness; report writing; and deprivation reporting.”

132. The Conditional License stripped the Otter Tail County Jail of its Class III Facility license, reducing the facility to a Class I license until the training and other administrative requirements were met. A Class I Facility, known as a holding facility, is “a secure adult detention facility used to confine inmates for a time not to exceed 72 hours excluding holidays and weekends.” Minn. R. 2911.0200, subp. 11.

133. The Conditional License set a March 18, 2024 deadline for Jail Administrator Carlson to confirm the initiation of an internal investigation.

X. Sheriff Fitzgibbons, Jail Administrator Carlson, and other Senior Staff Knew of and Endorsed Otter Tail County Jail's Pattern of Neglecting Well-Being Check Requirements.

134. The Defendants' mistreatment and torture of Mr. Kettle in February 2024 was not an isolated incident; Otter Tail County Jail has been notified over and over again that it has failed to meet minimum standards regarding supervision of incarcerated people, specifically in its standards for well-being checks, to the detriment of those in its custody.

135. On November 5, 2021, Lavuya Jade Baker, another Native American in the custody of Otter Tail County Jail, was found dead, alone, in her cell.

136. Continuing the trend of falsely informing the public on what had really happened, Otter Tail County Jail stated in press releases that Ms. Baker's body was merely found during a "routine well-being check." Otter Tail County Jail failed to disclose that the well-being checks carried out in its facility failed in the most basic requirements.

137. During an audit after Ms. Baker's death, the Department of Corrections uncovered significant issues with the quality of well-being checks conducted by Otter Tail County Jail corrections officers.

138. Regarding Ms. Baker's death, the DOC specifically noted Otter Tail County Jail well-being checks were not sufficient: "Additionally while facility inspectors were reviewing Wellness checks in regard to a recent special incident it was found that multiple Wellness [checks] were not performed within a 30 minute time span." (*See* Exhibit B.)

139. The DOC also concluded that "some checks were conducted too hastily to recognize the well-being of the inmate in the cell or determine signs of life." (*Id.*)

140. The DOC went on to confirm that “Otter Tail County Jail has had a recent history of documented non-compliant well-being checks” and that “as a result of the non-compliant well-being checks found during the inspection,” the facility was “subject to a 3rd corrective action plan in 2021.” (*Id.*)

141. The DOC also made clear that “[t]he facility must develop a system of auditing well-being checks to determine whether staff follow the requirements in the rule and follow-up with staff who are not in compliance with the standard.” (*Id.*)

142. That 2021 inspection of Otter Tail County Jail also revealed that, as with Mr. Kettle, the facility was not properly performing “approved mental health screening” during intake procedures. (*Id.*)

143. The following year of 2022, the last year available for audits, DOC again inspected Otter Tail and yet again found that Otter Tail County Jail’s well-being checks were not adequate. (*See Exhibit C.*)

144. The DOC also stressed that, as with Mr. Kettle, inmates who are “mentally ill” require “[m]ore frequent observation” given their special needs. (*Id.*)

145. Although the Otter Tail County Sheriff has a formal policy requiring well-being checks, Defendants Floden, Carlson, and Fitzgibbons were well aware that the actual pattern and practice at Otter Tail County Jail has, for years, ignored those requirements, and was replaced by perfunctory and hastily conducted well-being checks and supervision of those in their custody, resulting in the death of at least one person.

XI. Sheriff Fitzgibbons and other Senior Staff Knew of the Risks of Otter Tail County Jail's Failure of Training and Supervision over Well Check and other Supervision Requirements, and they Ignored these Risks to Mr. Kettle's Detriment.

146. As documented in the DOC inspections and reports, Otter Tail County, through Defendants Floden, Carlson, and Fitzgibbons, failed to train correctional officers as to the minimum constitutional requirements they must meet regarding inmate safety and hygiene, biohazards, punishment of pretrial detainees, withholding food and water in disciplinary actions, and well-being checks.

147. The scope of this failure to properly train and supervise was well known to Defendants Floden, Carlson, and Fitzgibbons, but they all failed to address the problem.

148. Indeed, they had been notified over many years of the failures in supervision and medical care, including well-being checks. They knew that risks were fatal for inmates due to the death of Lavuya Jade Baker. They were deliberately indifferent to these risks, failing to train and supervise Defendant Officers in their roles of complete power over incarcerated persons at Otter Tail County Jail.

XII. Defendants' Misconduct Had Serious Adverse Impacts on Mr. Kettle's Physical Health and Mental Wellbeing.

149. As a direct result of Defendants' actions, Mr. Kettle suffers greatly from trauma-related mental health disorders that impact his daily life.

150. As a direct result of Defendants' actions, Mr. Kettle regularly experiences severe and debilitating anxiety at the thought of confinement and interacting with correctional officers. The extreme feeling of hopelessness that Mr. Kettle experienced at the hands of Defendants has left a permanent scar on Mr. Kettle's ability to trust others and seek help.

DAMAGES

151. Mr. Kettle suffered and continues to suffer:

1. Conscious pain and suffering;
2. Humiliation;
3. Indignity;
4. Disgrace;
5. Stress;
6. Fear;
7. Anxiety;
8. Depression;
9. Embarrassment;
10. Despondency;
11. Mental suffering;
12. Fear of correctional officers.

152. Defendants' actions proximately caused all the damages Mr. Kettle suffered.

PUNITIVE DAMAGES

153. Defendants' actions in (i) withholding sufficient water from Mr. Kettle for a period of nearly 52 hours; (ii) withholding food from Mr. Kettle for a period of nearly 60 hours; (iii) denying Mr. Kettle sanitary living conditions for nearly 52 hours; (iv) denying Mr. Kettle medical attention for nearly 52 hours (despite his pleas for help and clear signs of mental instability, including eating feces and drinking toilet water); and (v) denying daily necessities of medical care, a shower, and exercise, shock the conscience and are reprehensible.

154. Defendants' actions were undertaken with knowledge that such conduct violated the United States Constitution and Minnesota law.

155. The purpose of punitive damages is deterrence and retribution.

156. Defendants' conduct is unlawful and is capable of repetition, which must be deterred.

157. An award of punitive damages would bear a reasonable relationship to the harm suffered and to damages in similar cases.

158. As such, Mr. Kettle is entitled to punitive damages against Defendants.

CAUSES OF ACTION

COUNT I – AGAINST ALL DEFENDANTS

**VIOLATION OF CIVIL RIGHTS, 42 U.S.C. § 1983
FOURTEENTH AMENDMENT—DENIAL OF DUE PROCESS—SEGREGATION**

159. Mr. Kettle incorporates by reference each preceding Paragraph as if fully set forth herein.

160. Mr. Kettle, between February 9, 2024, and February 12, 2024, was a pretrial detainee held at the Otter Tail County Jail.

161. Mr. Kettle, as a pretrial detainee, possessed a constitutional due process right under the Fourteenth Amendment to be free from punishment.

162. On February 9, 2024, Mr. Kettle was punished by being placed in segregation as a result of outstanding disciplinary time from a prior offense, nearly two years prior.

163. Segregation at the Otter Tail County Jail is placement in the restrictive housing unit of the jail—*i.e.*, solitary confinement.

164. Segregation “shall not involve any more deprivation of privileges than is necessary to obtain the objective of protecting the inmate, staff, or public,” Minn. R. § 2911.2800, which creates a Fourteenth Amendment liberty interest in not being deprived of more privileges than necessary to secure the objectives of the placement in segregation.

165. Before being placed in segregation, the Fourteenth Amendment right to due process, as well the Otter Tail County Sheriff's Office Custody Manual, require that inmates and detainees be provided notice and an opportunity to contest the placement. Mr. Kettle was not given this opportunity.

166. Mr. Kettle's placement in solitary confinement was unrelated to any behavioral issues that occurred in connection with the charges on which he was being held, nor was it related to protecting Mr. Kettle, any other inmates at the Otter tail County Jail, its staff, or the public—it related solely to time he was held for a prior offense, an offense for which Mr. Kettle had already served his sentence before coming to Otter County Jail in February 2024.

167. Mr. Kettle did not commit any disciplinary infractions or otherwise disrupt the operations of the Otter Tail County Jail prior to being placed in solitary confinement on February 9, 2024.

168. There was no legitimate government interest to be served by placing Mr. Kettle in solitary confinement upon his arrival at the Otter Tail County Jail.

169. By placing Mr. Kettle in punitive segregation, Defendants unlawfully punished him in violation of his Fourteenth Amendment right to be free from punishment. This placement in segregation was not rationally related to any legitimate governmental objective and served no purpose other than to punish him.

170. Further, upon information and belief, the Otter Tail County Jail has a policy that requires detainees with outstanding disciplinary time, if they later return to the facility on an unrelated offense, to serve that outstanding disciplinary time, regardless of the circumstances of the prior conduct for which they received that time, or the amount of time that has passed since that previous detention.

171. This policy, which denies detainees the opportunity to contest placement within solitary confinement, violates procedural due process protections by depriving detainees of a liberty and/or property interest without adequate notice and an opportunity to be heard.

172. By placing Mr. Kettle in segregation without providing him notice and an opportunity to be heard, Defendants violated Mr. Kettle's procedural due process rights.

173. As a result of Defendants' violations of Mr. Kettle's constitutional rights, he is entitled to damages and injunctive relief.

COUNT II – AGAINST ALL DEFENDANTS

VIOLATION OF CIVIL RIGHTS, 42 U.S.C. § 1983 FOURTEENTH AMENDMENT—DENIAL OF DUE PROCESS—AS PUNISHMENT, DENIAL OF FOOD, HYDRATION, MEDICAL CARE, EXERCISE, A SHOWER, AND TO BE FREE OF BIOHAZARD MATERIAL

174. Mr. Kettle incorporates by reference each preceding Paragraph as if fully set forth herein.

175. Mr. Kettle witnessed Defendant Officers shut the water off to his cell nearly immediately after he smeared his feces over the cell and forced it outside his cell.

176. For nearly 52 hours, Defendants refused to provide Mr. Kettle water or food or restore the water to his cell, and they restricted his access to daily necessities including: access to daily medical checks, mental health services, sanitary conditions, daily exercise, and an opportunity to shower.

177. In more than 100 well-being checks across nearly 52 hours, Defendant Officers misreported Mr. Kettle's status as "OK" despite an extensive deprivation of his constitutionally guaranteed rights to food, water, sanitary conditions, and other daily essentials, and they failed to

report or otherwise document that they were depriving him of those daily necessities for nearly 52 hours.

178. Defendant Officers were aware of the significant impacts these denials had on Mr. Kettle, observing Mr. Kettle “licking the feces off the cell window” and refusing dozens of requests for water from Mr. Kettle.

179. Defendant Officers refused to clean Mr. Kettle’s cell and demanded that he do so prior to providing him food and restoring the water to his cell.

180. Eventually, other staff of the Otter Tail County Jail opened and cleaned Mr. Kettle’s cell, after it had been covered in biohazard materials for over 52 hours.

181. Defendants understood the horrific nature of the conditions in which they had confined Mr. Kettle, moving other inmates away from his cell, or providing them with masks, due to the stench of biohazard material, and documenting that “vapo rub” (intended to block out or cover up smells) was available to jail staff. Defendants did this despite their obligation to deal with the biohazard material in and around Mr. Kettle’s cell.

182. Mr. Kettle has a constitutional right under the Fourteenth Amendment to an adequately nutritious diet while detained.

183. By withholding food and water from Mr. Kettle, Defendants violated his Fourteenth Amendment right to adequate nutrition.

184. Defendants withheld food and water from Mr. Kettle by refraining from providing him food, placing unlawful conditions on his access to food, and by turning off the water to his cell.

185. Defendants denied food and water to Mr. Kettle knowingly and intentionally, with deliberate intent to punish him in violation of his Fourteenth Amendment right as a pretrial

detainee to be free from punishment. Defendants' denial of food and water to Mr. Kettle was not rationally related to any legitimate governmental objective and served no purpose other than to punish him.

186. Defendants were not merely negligent or inadvertent; they had actual knowledge of the substantial risk posed by withholding food and water from Mr. Kettle for nearly 52 hours. In addition to acting in a punitive manner, Defendants were also deliberately indifferent to the risks their actions posed to Mr. Kettle's rights and well-being.

187. Minnesota regulations also created in Mr. Kettle a liberty/and or property interest in being fed a nutritiously adequate diet.

188. Otter Tail County Jail is a licensed correctional facility under Chapter 2911 of the Minnesota Administrative Rules.

189. As a licensed correctional facility, the Otter Tail County Jail is subject to numerous statutory and regulatory requirements, including (but not limited to) Chapter 2911 of the Minnesota Administrative Rules and Minn. Stat. § 241.021.

190. As a result of the following mandatory rules, Mr. Kettle possessed a liberty and/or property interest in being provided nutritionally adequate food and water that complied with those rules, including but not limited to:

a. Minn. R. 2911.3900, which provides in part that “[n]utritional needs of adult inmates, and juvenile inmates housed in an adult facility, shall be met in accordance with inmate needs or as ordered by a medical professional, and meet the dietary allowances contained in this part which are based upon 2005 MyPyramid guidelines for a weekly 2,400 calories per day and meeting the 2002 Dietary Reference Intakes. A facility governed by

this chapter shall have menu planning sufficient to provide each inmate the specified food servings per day contained in subparts 2 to 7”;

b. Minn. R. 2911.4100, which provides in part that “There shall not be more than 14 hours between a substantial evening meal and breakfast” and “Where inmates are not routinely absent from the facility for work or other purposes, at least three meals shall be made available at regular times during each 24-hour period. Variations may be allowed based on weekend and holiday food service demands provided basic nutritional goals are met”; and

c. Minn. R. 2911.4400, which provides that “Food shall not be withheld as punishment.”

191. During the nearly 52 hours Defendants denied Mr. Kettle food and water, from the morning of Saturday, February 10, through the morning of Monday, February 12, Mr. Kettle’s basic nutritional goals were not met.

192. By depriving Mr. Kettle of food and water, and in punishing him by doing so, Defendants violated his Fourteenth Amendment right to a nutritionally adequate diet and his Fourteenth Amendment due process rights established by regulations applicable to the Otter Tail County Jail.

193. Mr. Kettle also has a constitutional right under the Fourteenth Amendment, as a pretrial detainee, to be housed in reasonably sanitary conditions, to be free of unsanitary conditions, and to access daily medical care, exercise, and an opportunity to shower.

194. Defendants subjected Mr. Kettle to confinement in unsanitary conditions by keeping him in a cell that had been smeared with feces, among other things, and by failing to provide daily medical care, exercise, and an opportunity to shower.

195. Defendants knowingly and intentionally kept Mr. Kettle confined in unsanitary conditions without daily medical care, exercise, or an opportunity to shower, with deliberate intent to punish him in violation of his Fourteenth Amendment right as a pretrial detainee to be free from punishment.

196. Defendants' confinement of Mr. Kettle in unsanitary conditions without daily medical care, exercise, or an opportunity to shower was not rationally related to any legitimate governmental objective and served no purpose other than to punish Mr. Kettle.

197. Defendants were not merely negligent or inadvertent; they had actual knowledge of the substantial risk posed by keeping Mr. Kettle in unsanitary conditions, in a cell that had been smeared with feces, without daily medical care, exercise, or an opportunity to shower; in addition to acting in a punitive manner, they were also deliberately indifferent to the risk posed to Mr. Kettle's rights and condition by their actions.

198. By forcing Mr. Kettle to stay in a cell covered in feces, and denying him medical care, exercise, or an opportunity to shower, Defendants knowingly and deliberately, or with deliberate indifference, violated Mr. Kettle's Fourteenth Amendment rights to be housed in reasonably sanitary conditions and to be free of unsanitary conditions.

199. Defendants' denial of adequately sanitary conditions to Mr. Kettle was punitive of and/or deliberately indifferent to his rights and physical and mental condition in violation of his Fourteenth Amendment right as a pretrial detainee to be free from punishment.

200. Minnesota regulations also created in Mr. Kettle a liberty and/or property interest in being housed in reasonably sanitary conditions.

201. Otter Tail County Jail is a licensed correctional facility under Chapter 2911 of the Minnesota Administrative Rules.

202. As a licensed correctional facility, the Otter Tail County Jail is subject to numerous statutory and regulatory requirements, including but not limited to Chapter 2911 of the Minnesota Administrative Rules and Minn. Stat. § 241.021.

203. As a result of the following mandatory rules, Mr. Kettle possessed a liberty and/or property interest in being provided a sanitary environment that complied with those rules, including but not limited to:

a. Minn. R. § 2911.2750, subp. 3 mandates that Otter Tail County have a policy that permitted Mr. Kettle to bathe or shower daily;

b. Minn. R. § 2911.3600, subp. 5, mandates that Otter Tail County Jail provide “clean clothing appropriate for the season.”

c. Minn. R. § 2911.7200, subp. 2, mandates that jail “floors are kept clean, dry, and free of hazardous substances.”

204. Defendants performed these actions knowingly and intentionally, with the intent to punish Mr. Kettle. In the alternative, Defendants were deliberately indifferent to Plaintiff’s constitutional rights.

205. As a result of Defendants’ violations of Mr. Kettle’s constitutional rights, he is entitled to damages and injunctive relief.

COUNT III – AGAINST ALL DEFENDANTS

VIOLATION OF MINNESOTA CONSTITUTION, ARTICLE I, § 7—DUE PROCESS

206. Mr. Kettle incorporates by reference each preceding Paragraph as if fully set forth herein.

207. The Minnesota Constitution provides that all people, including Mr. Kettle, have full due process protections under the law.

208. Defendants subjected Mr. Kettle to segregation and unacceptable conditions of confinement by denying him food, water, sanitary conditions, and other daily necessities, in violation of his rights to procedural and substantive due process.

209. Defendants deprived Mr. Kettle of his liberty interests, particularly in daily nutrition and hydration, without following the correct and lawful process for doing so.

210. As a result of Defendants' violations of Mr. Kettle's rights under the Minnesota Constitution, he is entitled to damages and injunctive relief.

COUNT IV – AGAINST THE COUNTY, DEFENDANTS FLODEN, CARLSON, & FITZGIBBONS

VIOLATION OF CIVIL RIGHTS, 42 U.S.C. § 1983, UNDER *MONELL* PATTERN AND PRACTICE OF CONSTITUTIONAL RIGHTS VIOLATIONS AND FAILURE TO TRAIN SUPERVISE TO PREVENT CONSTITUTIONAL RIGHTS VIOLATIONS

211. Mr. Kettle incorporates by reference each preceding Paragraph as if fully set forth herein.

212. Before February 10, 2024, Defendants Otter Tail County, Floden, Carlson, Fitzgibbons, and Defendant Officers were aware that the Otter Tail County Jail had a pattern and practice of failing to conform to well-being check policies and minimum constitutional requirements, failing to train officers on policies and minimum constitutional requirements related to detainee welfare—as documented by numerous correctional officers over the years, and failing to meet DOC standards—as summarized in the above paragraphs. Defendants were deliberately indifferent to these practices and violations, and failed to remedy those deficiencies.

213. Defendants the County, Floden, Carlson, and Fitzgibbons acted with deliberate indifference in failing to train the Otter Tail County Jail correctional officers and staff on constitutionally required standards for inmate safety and hygiene, biohazards, use of food in

discipline, and well-being checks. In fact, Defendant Floden actually directed Defendant Officers to withhold food, exercise, and sanitary conditions from Mr. Kettle as punishment, in direct violation of his constitutional rights.

214. As a result of this failure to train, Defendant Officers acted with deliberate indifference by knowingly inflicting distress on Mr. Kettle in various forms to punish him. continued their pattern and practice of acting with deliberate indifference by failing to conform to the minimum constitutional standard for well-being checks. Specifically, Defendant Officers failed to visually observe whether Mr. Kettle was experiencing stress or trauma and ignored hearing his apparent despair. Defendants could hear and had seen Mr. Kettle's dire state of distress and ignored his pleas for help, for no purpose other than to punish him. In fact, Defendant Officers passed by Mr. Kettle's cell without conducting a proper well-being check 105 different times, mocking Mr. Kettle's plight in response to his pleas for food, water, sanitary conditions, and other human necessities. Defendants knowingly withheld food and water from Mr. Kettle for no purpose other than to punish him. Defendants knowingly and wrongfully withholding his sensitive personal documents. Defendants denied Mr. Kettle the medical and mental care that they knew or should have known Mr. Kettle badly needed. Defendants also punished Mr. Kettle by depriving him of a safe cell—free of biohazardous material or fit for any sort of human detention in this country. Defendants forced Mr. Kettle to stay in a cell so foul that they transferred other detainees and took steps to mitigate the stench for themselves—tracking biohazardous material throughout the facility—all for the sake of punishing Mr. Kettle. Defendants did all of this while unconstitutionally placing and keeping Mr. Kettle in segregation as a form of punishment—further compounding his decline in mental and physical health.

215. Upon information and belief, Defendants the County, Floden, Carlson, and Fitzgibbons were aware of Mr. Kettle's mistreatment and allowed it to continue or did nothing to stop it. In fact, the evidence demonstrates that as Acting Jail Administrator, Defendant Floden directed the conduct.

216. The violation of Mr. Kettle's rights was implemented, ratified and condoned by Otter Tail County Jail decisionmakers like the acting Jail Administrator Floden, and were affirmatively linked to and were the moving force behind the injuries to Mr. Kettle.

217. As a result of Defendants' customs and practices, Mr. Kettle was subjected to pain and suffering as alleged above and is entitled to damages and injunctive relief.

COUNT V – AGAINST THE COUNTY, DEFENDANTS FLODEN, CARLSON, & FITZGIBBONS

VIOLATION OF AMERICANS WITH DISABILITIES ACT, 42 U.S.C. § 1210,

218. Mr. Kettle incorporates by reference each preceding Paragraph as if fully set forth herein.

219. Mr. Kettle suffers from serious mental illnesses.

220. These serious mental illnesses are well-documented within Mr. Kettle's file and were well known to the Otter Tail County Jail staff and administrators—including the Defendants—as of, and long before, February 9, 2024.

221. As a pretrial detainee with documented and known mental illnesses, Mr. Kettle had the right to reasonable accommodations under the Americans with Disabilities Act.

222. On February 9, 2024, Mr. Kettle was placed in segregation due to outstanding disciplinary time from a prior offense without any assessment of his mental health condition or consideration of the impact of segregation on his mental health.

223. By placing Mr. Kettle in punitive segregation without any assessment of, or accommodation for, his serious mental illnesses, Defendants violated Mr. Kettle's rights under the Americans with Disabilities Act.

224. As a result of Defendants' failure to provide reasonable accommodations to Mr. Kettle on account of his serious mental illnesses, Defendants violated Mr. Kettle's rights under the Americans With Disabilities Act and he is entitled to damages and injunctive relief.

COUNT VI - AGAINST THE COUNTY, DEFENDANTS FLODEN, CARLSON, & FITZGIBBONS

VIOLATION OF REHABILITATION ACT OF 1973, 29 U.S.C. § 701,

225. Mr. Kettle incorporates by reference each preceding Paragraph as if fully set forth herein.

226. Upon information and belief, Defendant Otter Tail County Jail operates with the benefit of federal financial assistance.

227. Mr. Kettle suffers from serious mental illnesses that substantially limit various major life activities.

228. Those serious mental illnesses are well-documented within Mr. Kettle's files and were well known to the Otter Tail County Jail staff and administrators—including the Defendants—as of, and long before, February 9, 2024.

229. Mr. Kettle, as a pretrial detainee with serious mental illnesses—both documented and known to Otter Tail County Jail employees—had the right to be free of discrimination by Otter Tail County by reason of his serious mental illnesses.

230. On February 9, 2024, Mr. Kettle was placed in segregation as a result of outstanding disciplinary time from a prior offense without any assessment of his serious mental illnesses, his present condition, or what impact extended segregation would have on his serious mental illnesses

231. By placing Mr. Kettle in punitive segregation without any assessment of, or accommodation for, his serious mental illnesses, Defendants discriminated against Mr. Kettle and violated his rights under the Rehabilitation Act of 1973.

232. As a result of Defendants' violations of Mr. Kettle's rights under the Rehabilitation Act of 1973, he is entitled to damages and injunctive relief.

COUNT VII – AGAINST ALL DEFENDANTS

NEGLIGENCE

233. Mr. Kettle incorporates by reference each preceding Paragraph as if fully set forth herein.

234. Defendants had a duty to conduct their correctional operations on behalf of Otter Tail County in a manner that was free from negligence.

235. Defendants were obligated to operate under Otter Tail County policies, *see supra* ¶ 40, but they failed to adhere to those policies as required.

236. Defendants violated their duty to conduct their correctional operations in a manner that was free from negligence when they placed pretrial detainee Mr. Kettle in segregation, without any assessment of his serious mental illnesses, and then withheld food, water, sanitary conditions, and daily necessities for nearly 52 hours.

237. As a result of Defendants' negligent care and treatment of Mr. Kettle, and violation of his rights, he is entitled to damages and injunctive relief.

COUNT VIII – AGAINST ALL DEFENDANTS

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

238. Mr. Kettle incorporates by reference each preceding Paragraph as if fully set forth herein.

239. Defendants intentionally inflicted emotional distress when they placed Mr. Kettle in segregation, without any assessment of his serious mental illnesses, and then withheld food, water, sanitary conditions, and daily necessities for nearly 52 hours. Notably throughout the course of that more than two-day period, Defendant Officers routinely mocked, harassed, and humiliated Mr. Kettle as he begged for food and water and displayed symptoms of his serious mental illnesses. For example, on one occasion, Defendant Officer Evavold-Tosso made light of Mr. Kettle's desperation for water by saying something to the effect of "I wonder why that is"—referring to why Mr. Kettle was so thirsty, and denying him water. In fact, acting Jail Administrator Floden specifically directed Defendant Officers to punish Mr. Kettle by withholding adequate nutrition, in violation of Minnesota law and the Otter Tail County Jail Custody Manual.

240. Defendants' conduct was extreme and outrageous, going beyond all bounds of decency, in a manner that is particularly extreme and intolerable, as recognized by the Department of Corrections citation.

241. Defendants' conduct exhibited an intent to cause emotional distress, or at the very least they acted with reckless disregard of the likelihood that distress would result from their actions.

242. Mr. Kettle suffered severe emotional distress as a direct result of Defendants' conduct, both in placing him in administrative solitary confinement as a punishment and then withholding for more than two days food, water, sanitary conditions, and other daily necessities.

243. As a result of Defendants' intentional mistreatment of Mr. Kettle, and violation of his rights, he is entitled to damages and injunctive relief.

PRAAYER FOR RELIEF

Wherefore, Mr. Kettle respectfully requests that this Court enter judgment in his favor and against Defendants as follows:

- A. Enter judgment on behalf of Mr. Kettle against Defendants for reasonable damages sufficient to compensate him for the violation of his constitutional rights, federal law, and Minnesota state law.
- B. Permanently enjoin and prohibit Defendants from interfering with Mr. Kettle's constitutional rights. Specifically enjoining Defendants from:
 - a. Retaliating against Mr. Kettle for bringing this lawsuit; and
 - b. Subjecting Mr. Kettle to unlawful punishment and torture;
- C. Enter judgment requiring Defendants to pay punitive and other exemplary damages;
- D. Enter judgment requiring Defendants to pay Mr. Kettle's attorneys' fees and costs, as authorized by 42 U.S.C. § 1998, prejudgment interest, and any other relief deemed necessary and proper; and
- E. Grant any other relief to which Mr. Kettle may be entitled.

Respectfully submitted,

/s/ Catherine Ahlin-Halverson

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