

22-7507

No. \_\_\_\_\_

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SUPREME COURT, U.S.

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

SALADIN RUSHDAN (aka: Woods)

— PETITIONER

(Your Name)

vs.

DR. HAAR, et. al.

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

NINTH CIRCUIT COURT OF APPEALS

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Saladin Rushdan (aka: Woods, #B-38236)

(Your Name)

Solano State Prison - P.O. Box 4000

(Address)

Vacaville, California 95696

(City, State, Zip Code)

(Phone Number)

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**QUESTION(S) PRESENTED**

1.) Does and Out of Court Settlement Agreement "Set the Perimeters" for future so-called Legitimate Correctional Goals in a specific instance?? Or does a supposed legitimate correctional goal 'negate' a previous Out of Court Settlement?? Or did they abrogate that right?

2.) Does one Doctor's opinion negate "many Doctor's" opinion, who agree that a particular Chronic Medical condition is in fact painful?

3.) Also, does a supposed Legitimate Correctional Goal allow Prison Administrators to violate a prisoners 1st Amendment Right to be free from consistent retaliation???

4.) Is it Constitutional to deny an "open medical prescription" that a prisoner has been receiving for decades? (Harmless medication.)

5.) Can "\$Monetary concerns" be used to deny a prisoner medical treatment?? Even though that prisoner has a previous Out of Court Settlement, that already agreed to pay for all medical bills?

6.) When a prisoner offers to sign a "Disclaimer" for medical treatment in order to continue "Rehabilitative Efforts," does that constitute a denial of the right to refuse treatment when prison officials refuse to accept it? (Non-life threatening.)

7.) Can the same Judge (Magistrate), in one Case, "dismiss" another case that agrees with the premise ruled on in the present case?

8.) Also, can a (supposed) legitimate correctional goal be justified as legitimate even if the "motive is corrupt.?"

9.) Is it Constitutional to force a prisoner to accept a Magistrate Judge in a Civil Suit?

10.) When the Director of all prisons makes a decision on a Grievance filed by a prisoner, is it binding on lower level prison administrators??

## LIST OF PARTIES

[ ] All parties appear in the caption of the case on the cover page.

[X] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Dr. Haar, CMC-East's Chief Medical Executive

Dr. Breen, CMC-East doctor.

Dr. Taylor, CMC-East doctor.

Kenly Kiya Kato - Magistrate Judge

## RELATED CASES

Rushdan v. Dr. Haar, et. al. No. 2:19-cv-00695-ODW-KK Central District  
(aka: Woods) California

Rushdan v. Dr. Haar, et. al. No. 22-55253 Ninth Circuit Court of Appeals

Rushdan v. Blain, et. al. No. 2:21-cv-03093-RGK-JDE-KK Central District  
California

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A.

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28 U.S.C. 1331

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**OTHER**

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CASE LAW

- 2 Aktar v. Mesa, 698 F. 3d 1202, 1212 (9th Cir. 2012)
- 3 Almond v. Wisconsin, 2008 WL 2903574, #1 (E.D. July 24, 2008)
- 4 Ancata v. Prison Health Services Inc., 769, F.2d 700, 704 (11th Cir.1995)
- 5 Anderson v. Bessemer City, 470 U.S. 564, 573, 105 S. C. 1504, 84
- 6 L. 2d, 518 (1985)
- 7 Booker, supra, at 261, 125 S. Ct. 738, 160 L. Ed 2d 621 Sec. 3553 (a)
- 8 Baugus v. Brunson, 890 F. Supp. 908 (E.D. Cal. 1995)
- 9 Brodheim v. Cry, 584 F. 3d 1262, 1269 (9th Cir. 2009)
- 10 Brown v. Johnson, 387 F. 1344, 1350 (11th Cir. 2004)
- 11 Bruce v. Ylst, 351 F. 3d 1283, 1289 (9th Cir. 2003)
- 12 Butler v. San Diego Dist. Attorney's Office, 370 F. 3d 956, 963
- 13 (9th Cir. 2004)
- 14 Colon v. Coughlin, 58 F. 3d 865 (2nd Cir. 1995)
- 15 Cruz v. Beto, 405 U.S. 319, 321, 92 S. Ct. 1079, 31 L. 3d. 2d 263
- 16 (1972); O'Jeefe V, Van Boening 82 F.3d 322, 325 (9th Cir. 1996)
- 17 Cunningham v. California, 549 U.S. 270 (Jan. 2, 2007)
- 18 Dean v. Coughlin, 623 F. Supp. 392, 404 (S.D.N.Y. 1985)
- 19 Erickson v. Pardus, 551, U.S. 89 (June 4, 2007)
- 20 Estelle v. Gamble, 429 U.S. 97 (1976)
- 21 Farmer, 511 U.S. at 837, 511 U.S. 825 (1994)
- 22 Harris v. Ostrout, 65 F. 3d 912 (11th Cir. 1995)
- 23 Isby v. Clark, 100 F. 3d 502 (7th Cir. 1996)
- 24 Jackson v. McIntosh, 90 F. 3d 330, 332 (9th Cir. 1996)
- 25 John L. v. Adams, 969 F. 2d 228 (6th Cir. 1992)
- 26 Johnson v. Meltzer, 134 F. 3d 1393, 1398 (9th Cir. 1998);citing
- 27 Farmer 511 U.S. at 837.
- 28 Jones v. N.C. Prisoners Labor Union Inc., 433 U.S. 119 (1977)

~~XXX~~

EASES cont.....

- 1 Kessler v. Strecker, 307, U.S. 22, 59 S. Ct. 694, 83 L.E.D. 1082
- 2 1939 U.S. LEXIS 1081 (1939).
- 3 Jean Laurent v. Wilkinson, 438 F. Supp. 2d 318, 2006 U.S. Dist.
- 4 LEXIS 46047 (SDNY 2000)
- 5 Lavender v. Lampert, 242 F. Supp. 2d 821, 845 (D. Or. 2002)
- 6 Marks v. United States, 578 F. 2d 261, 263 (9th Cir. 1978)
- 7 Mc Alphin v. Toney, 281 F. 3d 709, 711 (8th Cir. 2002)
- 8 McElligott v. Foley, 182 F. 3d 1248, 1256 (11th Cir. 1999)
- 9 Minix v. Canarecci, 597 F. 3d 824
- 10 Mistretta v. United States, 488 U.S. 361 (Jan. 18, 1989)
- 11 Mitchell v. Forsyth, 472 U.S. 511, 526, 105 S. Ct. 2806, 86
- 12 L. Ed 2d, 411 (1985)
- 13 Monmouth County Correc. Inst. for Inmates v. Lanzaro, 824 F. 2d
- 14 326-336, 37, 347 (3d. Cir. 1987)
- 15 Morrissey v. Brewer, 408 U.S. 471, 481 (1972)
- 16 Nevada Dept. of Corr. v. Greene, 648 F. 3d 1014, 1018 (9th Cir. 2011)
- 17 Phelan v. Thompson, 889, F. Supp. 517 (D.N.H. 1994)
- 18 Quiroz v. Horel, 85 Supp. 3d. 1115, 1124 (N.D. Cal. 2015) Emphasis
- 19 added: (citing: Bruce v. Ylst, 351, F. 3d 1283, 1289 (9th Cir. 2003)
- 20 Richmond v. J.A. Croson Co., 488 U.S. 469, 493, 102 L. Ed. 2d
- 21 854, 109 S. Ct. 706
- 22 Rhodes v. robinson, 408, F. 3d 559, 567-68 (9th Cir. 2009)
- 23 Riddle v. Mondragon, 83 F. 3d 1197
- 24 Ruffin v. Desperio, 97 F. Supp. 2d 346, 353 (W.D.N.Y.2000) E.G.,
- 25 id. 567, Brodheim v. Cry, 584, F. 3d 1262, 1269 (9th Cir. 2009)
- 26 Smith v. Maschner, 899 F. 2d 940, 948 (10th Cir. 1990)
- 27 Sorrels, 29 F. 3d at 971
- 28 Tolentino V. Friedman, 46 F. 3d 645 (7th Cir. 1995)

1 Washington v. Harper, 494 U.S. 210 (1990)

2 Watison, 668 F. 3d at 1114-15 (Citing Rizzo v. Dawson, 778 F.

3 2d 527, 532 (9th Cir. 1985)

4 Woods v. Smith, 60 F. 3d 1161, 1165 (5th Cir. 1995)

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(5b)



IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix "A" to the petition and is

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☒ is unpublished.

The opinion of the United States district court appears at Appendix "B" to the petition and is

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☒ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

The opinion of the \_\_\_\_\_ court appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

## JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was December 19, 2022.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

☒ An extension of time to file the petition for a writ of certiorari was granted to and including May 18, 2023 (date) on February 11, 2023 (date) in Application No. 22 A 739.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1). (2)

☐ For cases from **state courts**:

The date on which the highest state court decided my case was \_\_\_\_\_.  
A copy of that decision appears at Appendix \_\_\_\_\_.

☐ A timely petition for rehearing was thereafter denied on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_\_\_ A \_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

**CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

- 1.) FIRST AMENDMENT OF THE UNITED STATES CONSTITUTION  
(BAR AGAINST RETALIATION FOR FREEDOM OF SPEECH)
- 2.) EIGHTH AMENDMENT OF THE UNITED STATES CONSTITUTION  
(BAR AGAINST CRUEL AND UNUSUAL PUNISHMENT)
- 3.) FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION  
(EQUAL PROTECTION UNDER THE LAW) 28 U.S.C. 1331.
- 4.) IN THE INTEREST OF JUSTICE!
- 5.) THIS AMENDMENT IS ENFORCED BY TITLE 42, SECTION 1983, U.S. CODE

## STATEMENT OF THE CASE

Petitioner, Legal Name: Saladin Rushdan (aka: Woods) is proceeding Pro Se in this action.

Petitioner in 2016 Settled Out of Court with the California Dept. of Corrections and Rehabilitation. (CDCR)

This Settlement was a result of years of Petitioner being denied Medical Treatment and being constantly transferred to other prisons.

As a prerequisite to that Settlement (CDCR) Counsel Complained that the previous Out of Court Settlement reached in 1993 was to restrictive. Since it only allowed Petitioner to be Housed at one specific prison during the duration of his Medical treatment and further only allowed Petitioner to be treated by one specific Doctor. The Prison Administration consequently violated that Settlement. So (CDCR) changed the language of the last Settlement.

Plaintiff states that on August 31, 2018, Petitioner/Plaintiff was transferred to CMC-East Prison. As a result of and authorized and agreed to transfer from Los Angeles County Prison. Plaintiff was offered the transfer as a result of lower- custody. An of the options offered, Petitioner/Plaintiff chose CMC-East. Plaintiff has worked for years to attain such a transfer. Because of the fact that CMC-East is the only prison that is totally Single-Celled.

Because of Petitioner/Plaintiff's numerous medical issues, his age, committment offenses and decades in prison. Plaintiff needed/needs the Single-Cell status more than anything. Not only for it's privacy, but so Plaintiff/Petitioner could have "Rest and Recuperation" after ongoing surgeries. But despite Doctor's recommendations CDCR still refuses to grant Petitioner/Plaintiff Single-Cell Status elsewhere.

1 In addition Plaintiff suffers pain 24 hrs. daily. Another major  
2 motivation for single-cell was to be free from late night cellmate  
3 assault. The amount of programs CMC-East has over other prisons,  
4 as well as the "high rate" of Paroles from CMC-East, being a HUB  
5 institution. CMC-East is the most unique prison in all CDCR, in  
6 that it is the "only" prison where prisoners have their own "key"  
7 to their cell door. (For medical emergencies, can't top that.)

8 A virtual paradise for and old Lifer with the numerous Medical  
9 problems of Plaintiff. An although there are many other atypical  
10 advantages offered at CMC-East. Let's cut to the chase!!

11 Donovan was originally offered as and option of transfer to the  
12 Plaintiff at Lancaster. Plaintiff soundly "rejected" that offer and  
13 chose CMC.

14 Upon arrival at CMC-East there were no initial major problems.  
15 Plaintiff brought "Chronic Care" Medical Supplies from Lancaster with  
16 him, which included a partial bottle of Peroxide.

17 The first problem began with Plaintiff's first contact with  
18 defendant Breen! Defendant Breen was obnoxious, arrogant and disin-  
19 terested in anything Plaintiff had to say 'bout his medical condition.  
20 Plaintiff apprised defendant Breen of the 2016 Settlement Agreement  
21 wherein, CDCR "supposedly" agreed to a "particular type" of Medical  
22 treatment for his Keloid problem. Yet, defendant Breen refused the  
23 "suggestion or even existence" of the document as having "any" bearing  
24 on Plaintiff receiving any future medical treatment. Defendant Breen  
25 told Plaintiff he would be seen by a person with Dermatological train-  
26 ing and then "a decision" would be made whether Plaintiff would re-  
27 ceive "any treatment" at all. Contrary to the Settlement.

Plaintiff then requested that his Chrono's be updated and recognized at CMC. An was refused! Plaintiff then requested that he be issued his normal "Chronic Care Supplies" which includes Peroxide and Anti-Biotic Ointment! An was refused!

Plaintiff, in desperate need of refills, contested defendant Breen's denial, by filing a 602 Medical Grievance, (Informal Level).

Shortly thereafter Plaintiff was told by several prisoners that CMC-Medical would "ship me out" for filing Grievances. An I was told specifically defendant Breen had a nefarious reputation of having problems with prisoners.

Their "predictions" came true! Very quickly and shortly thereafter, Plaintiff's Counselor called Plaintiff into his Office. The Counselor told Plaintiff that a Dr. Haar wanted me shipped out! An the "excuse" he gave the Counselor for his motivation was Plaintiff's own 2016 Settlement with CDCR. Plaintiff allowed the Counselor to read the document for himself and refuted the "false statements" of defendant Haar. Afterward the Counselor told Plaintiff he would do everything he could to keep Plaintiff at CMC!

At which point Plaintiff "documented" on the "Formal Level" of the Grievance that he had received "threats" of transfer shortly after filing the Medical Grievance.

Plaintiff then spoke with one of his building Officers whose mother was also a prison guard in the 80's who Plaintiff knew. That Officer then spoke with the Sergeant and Lieutenant on Plaintiff's behalf. Normally the Custody Staff can suspend a prisoner's transfer. Which speaks to the level of power defendant Haar has over them. Defendant Haar "overrode" everyone's attempts to keep Plaintiff.

1 But, Plaintiff assuming from past experience that he would not  
2 be transferred at all. Began involving himself in "positive programs."  
3 Plaintiff got a job, in fact, the best job he's ever had in 50 yrs.  
4 of prison. Plaintiff joined several Self-Help Groups and signed the  
5 waiting list for others. (All of them will make good witnesses as to  
6 the potential gains Plaintiff lost as result of transfer.)

7 "During this period," still suffering greatly from medical issues,  
8 Plaintiff again requested to see a doctor. Plaintiff was then seen  
9 by defendant Taylor. Who basically "repeated" the same "scenario" as  
10 defendant Breen. Both defendant's idea of an examination was to stand  
11 several feet away and look at Plaintiff. Plaintiff again requested  
12 his need for his normal "Chronic Dressing Change Supplies." An once  
13 "again was refused."

14 Shortly thereafter Plaintiff was seen by a Triage Nurse who told  
15 Plaintiff he could pick up "Supplies" on Monday's at the Supply win-  
16 dow and gave Plaintiff a Supply Card. "But," when Plaintiff went to  
17 the window to pick them up, he was told that there was no doctors  
18 order. (Keep in mind, that "weeks" had passed by this time!) Finally  
19 Plaintiff was given a few bandages. But "no" peroxide was issued!

20 Plaintiff then asked, what good were "dry" supplies without a  
21 cleaning agent?? Something to clean the wound-site first? Nor did  
22 any doctor offer any "substitute."

23 During this period, Plaintiff suffered "severe pain" and "many"  
24 infections which drained "pus and blood." Some infections didn't  
25 drain. Which is even more painful. Because Plaintiff suffered so  
26 many back to back more frequent than normal, Chronic infections.  
27 Many of Plaintiff's previous gains of treatment, were erased!

1 An his Keloids suffered "trauma" and returned even worse. As proof  
2 Plaintiff saved and dated much of the pus and blood.

3 Next, after months of Plaintiff thinking he was safe from transfer  
4 the Counselor told Plaintiff that defendant "Haar was again pushing" to  
5 transfer Plaintiff. Plaintiff told the Counselor that he was willing  
6 to sign a "disclaimer" and was willing to see any Dermatologist. He  
7 was willing to do anything to keep from being transferred back into  
8 the "hellish" environment that Plaintiff had finally escaped after  
9 decades. An to maintain his gains toward Parole suitability. In-  
10 stead defendant Haar pushed the transfer through on a lie.

11 The "mythological" idea that defendant Haar was somehow complying  
12 with the 2016 Settlement by "ordering" Plaintiff transferred is at  
13 best, ludicrous! Especially since "other prisoners" were seen by a  
14 Dermatologist near CMC-East.

15 On December 23, 2018, (not Dec. 2, 2018, as defendants say.) The  
16 Plaintiff was "special transported" to Donovan Prison. Right back  
17 into the same environment he had sought to escape from by going to  
18 CMC-East. Plaintiff was placed back into a violent, always on guard,  
19 stressful, always on lockdown, double cell, hell! Conditions that  
20 still threaten Health and Safety beyond normal. A nightmare, as if  
21 Plaintiff had never left Lancaster. Old San Quentin and Folsom were  
22 never as violent as Donovan's one year, in ten years. Plaintiff also  
23 has documented diagnosis as having suffered PTSD from his tours in  
24 Vietnam.

25 Between, December 2018 and February 2019, according to Ch. 10 News  
26 there were eight (8) Riots and (83) stabbings at Donovan. An the third  
27 (3rd) largest "race riot" in the entire CDCR History! Plaintiff...



...personally watched from his cell, nine (9) inmates beat another prisoner for forty-five minutes (45), without a response from guards. (I timed it!) Defendant Haar's unnecessary actions endangered Plaintiff's "health and safety" beyond the typical. An six months later on Aug. 23, 2019, there was another Riot, also on NBC. Since then there have been several "murders" and Riot on Staff.

\*Special Note: CMC-East Medical already has a "direct history" with the Plaintiff. A "history" of Deliberate Indifference, which fueled the Original 1983 Suit, that gave rise to the "present" Settlement. Plaintiff challenges the defendants to prove that any other prisoner in CDCR, has been transferred forty-one <sup>(43)</sup>~~(41)~~ times. Plaintiff points out to the Court the "Nexus" that shows a "pattern" of retaliation against Plaintiff for being a "litigator."

Further, there was "no" legitimate penological gain and the defendant's logic of "saving money" and uprooting Plaintiff as a part of Plaintiff's own Settlement, both stand forth as "flawed concepts."

Their idea is to "not" prevent sickness! But instead wait until a "Chronic" problem they know is going to repeat itself then treat it is also a flawed concept.

#### ARGUMENT

1.) See attached Out of Court 2016 Settlement! (Attachment #1) Nowhere does it state to transfer the Plaintiff to any Prison with a nearby Dermatologist, as defendants assert! See: (Attachment #8) Defendant Breen knew better, that was purposeful misreading. See: (Attachment #12)

Instead the Settlement "clearly" "clearly" states:...send Plaintiff to a Dermatologist "Near" the Institution where he is incarcerated.

1 (Not re-incarcerate Plaintiff somewhere else!) Nor did the defen-  
2 dants actually obey the actual Settlement and send Plaintiff to the  
3 nearest Dermatologist. (See: Attachment #13)

4 2.) The "false claim" that defendant Haar was so concerned about  
5 Plaintiff's comfort that he didn't want to see Plaintiff suffer fre-  
6 quent three hour trips is both "laughable and a lie." The transfer  
7 was only a "camouflage" for outright unadulterated retaliation!!

8 A.) The Settlement calls for Medical treatment "near wherever" the  
9 Plaintiff is housed. See: (Attachments #1 & 46) They admit it!

10 B.) It's Plaintiff's "right" to "accept or reject" any Medical  
11 treatment! (U.S. Constitution)

12 C.) Plaintiff "points to" the two doctors (Dermatologists revealed  
13 on Discovery). See: (Attachment #32) These Dermatologists were used  
14 for "all other prisoners in 2018!" Why not Plaintiff??? (Attachment #37)

15 D.) Dr. Bradley Kurgis, is located at "Templeton, Ca." approx.  
16 twenty-three (23) miles from CMC-East!! Closer then the one Plaintiff  
17 has seen since arriving at Donovan. (Attachment #32)

18 E.) Dr. Geover Fernandez, is located in Bakersfield, Ca. and al-  
19 though roughly a 3 hr. round trip. Because of all the great advantages  
20 of "Rest and Recuperation" Plaintiff had at CMC, a once every 6 to 8  
21 week visit would 'not' have been a major burden. The defendant's  
22 attempt to point to Plaintiff's complaints at Lancaster. Lancaster  
23 looks exactly like Donovan. (Attachment #32)! Yet defendants "lied"  
24 and claimed there was "no" local Dermatologist by CMC-East period!  
25 See: (Attachment #16)

26 3.) So defendant Haar's excuse for instigating Plaintiff's transfer  
27 is not only a "hoax" but and outright lie! The transfer was designed..

~~CONFIDENTIAL - ATTORNEY WORK PRODUCT~~

1 ..to get rid of a potential problem. So by defendants own state-  
2 ments, "other" prisoners were allowed to see both Dermatologists  
3 between Aug. 2018 and Dec. 2018! Yet the Plaintiff who had an  
4 Out of Court Settlement was excluded? (Attachment #32)

5 A.) Defendant Haar told the Counselor Mete that his motivation for  
6 Plaintiff's transfer was the 2016 Settlement. See:(Attachment #2)

7 Yet "now" defendant Haar backtracks on his lies. See:(Attachment #42)

8 4.) The whole idea of any Medical Settlement is to "improve" upon a  
9 Plaintiff's Health and Safety! Not "endanger" his Health and Safety.  
10 Nor is a Settlement designed to "disrupt" the other facets of a Plain-  
11 tiff's life. Nor, is a Settlement designed to "punish" a Plaintiff!

12 Otherwise, why settle in the first place if the conditions are to re-  
13 main the same as other prisoners? "To kill the Plaintiff to cure him."

14 Despite Plaintiff's objections, despite Plaintiff's past history, de-  
15 spite the Settlement Contract itself, defendant Haar over-rode all  
16 those factors. (Attachment #2)

17 POINT II

18 5.) The defendant is trying to "con" the Court by using the term  
19 "recommended." In and attempt to shift the spotlight from himself.

20 6.) Let's be clear, defendant Haar "orchestrated" the entire transfer.  
21 Were it not for defendant Haar and Breen Plaintiff would normally  
22 still be housed at CMC-East!! See:(Attachment #2)

23 7.) All those "custody officials" agreed that Dr. Haar "determined"  
24 that Plaintiff should be transferred! (An since they put it in  
25 writing, I'm sure they will be willing to testify in Court, at trial  
26 to this genuine fact! (Attachment #2)

27 8.) They were only forced to act after defendant Haar's continued



harassment. They delayed as long as possible. Retaliation!

9.) Off the Record! No names, they told me they did not want to transfer me and delayed from Sept. to Dec.!

10.) Defendant Haar, as Chief Executive Medical Officer, has power that equals the Warden's. An even though denied on discovery Plaintiff is sure direct testimony will reveal that numerous amounts of other prisoners have also suffered at the hands of defendant's Haar and Breen. For opposing defendant Breen's arrogance.

### POINT III

11.) Point I, amply disproves that defendant Haar had any concern for Plaintiff as a patient or his 2016 Settlement! CMC-East specifically has "history" of "disobeying" even CDC's "higher officials." Especially where Plaintiff is concerned. Plaintiff had hoped that mindset had been eradicated! But, what led to the first Suit and Settlement was the same mindset and similiar conduct!

(See: Attachements #6 and #10)

12.) Rather than obey the then "Director of Corrections" order and send Plaintiff "out" to and "outside" "off-site" consult. CMC-East Medical "instead" sent Plaintiff to a "prison surgeon," who incidently happened to be, on trial for murder in the death of a former prisoner at CMC. An when Plaintiff refused the obvious "set-up" (just like) 2018, they transferred Plaintiff out!! See:(Attachment ~~#8~~ & 10) (Dr. Kantor was the Director of County Jails at the time.)

13.) If, as the defense claims, these defendants "read" Plaintiff's Medical History, all this information is on file. History repeats itself. (Attachment #47)

14.) Their Penological gains are "illegitimate" both times. "Then..

1 ...and Now" the language of the "orders" for Plaintiff's Medical  
2 Treatment were plain and simple! "Yet," both times, "Past and Pre-  
3 sent" CMC-East Medical failed to obey and acted in a Deliberately  
4 Indiffernet manner. Coincidence? Same repeat attitude, rather  
5 than send Plaintiff to a "Dermatologist" as set forth in the Settle-  
6 ment, defendants again refused and shiiped Plaintiff out!

7 See:(Attachment #6 & #45)

8 15.) An in addition defendants attempt the illogical explanation  
9 that just because Plaintiff was seen by a doctor at Donovan that this  
10 somehow meets the standards of a ligitimate correctional goal. Now  
11 "had" defendants "obeyed" the Settlement, "that" would have been a  
12 legitimate goal!

13 16.) For the Record, the Dermatologist Plaintiff has seen while at  
14 Donovan, almost "killed" the Plaintiff. "Literally." Plaintiff  
15 collapsed after treatment and ended up in E.R. on I.V.'s and in-  
16 jections all night! The MRI showed "air bubbles" in Plaintiff's  
17 lungs, sinus tract and blood vessels. But that another Civil issue.  
18 See Diagnosis:(Attachment # 31)

19 17.) Plaintiff won't burden this Court. But again, none of this  
20 would have happened if defendant Haar hadn't placed Plaintiff in  
21 harms way! A.) On one hand defendant Haar says a "mythical" Court  
22 Order motivated him to transfer Plaintiff. See:(Attachment #8)

23 On the other hand defendant claims that noone ordered him to trans-  
24 fer Plaintiff. See:(Attachment #11)

25 18.) Plaintiff with decades in prison understands prison is designed  
26 for a specific purpose.

27 19.) But, Plaintiff reiterates, it was his choice to go to CMC-East.

Had Plaintiff imagined CMC would transfer him "right out" again he would have stayed at Lancaster. Chronic conditions existed before. 20.) Plaintiff also has a documented history of Bone problems along with his Keloid problems. Raised hard Keloids that are painful without added denial of medication. CMC-East has Spring beds, while Lancaster, Donovan and other Level IV design prisons have "metal-slabs." Plaintiff is in pain everytime he lays down, so why shouldn't he try to improve his prison condition. See:(Attachements #5,27,28,29) Plaintiff has many medical problems, so a Single Cell is the only relief Plaintiff can obtain in and insane prison environment. The original Settlement was "vacated" over the same issue. Single-Cell! See: (Attachements #20A, #20B, & #21) Doctor's Orders ignored again. 21.) Defendant Haar's only defense for placing Plaintiff back at risk was that, he had no knowledge of where Plaintiff would be transferred to. Another lie! He knew! See:(Attachment #36) He did not care as long as the Plaintiff was shipped out! ....A prisoner does not have to prove a defendant's actual knowledge of the consequences only knowledge of pain and illness is a substantial risk....(McElligott v. Foley 182 F. 3d 1248, 1256 (11th Cir. 1999) (Attachment #41) 22.) So if as defendant claims he didn't know the result of Plaintiff's adverse transfer. How then could the defendant possibly "judge" "whether the transfer" "promoted" or "advanced" a legitimate correctional goal?? (Watison, 668 F.3d at 1114-15) (Citing Rizzo v. Dawson, 778 F.2d 527, 532 (9th Cir. 1985)

#### POINT IV

23.) Defendants Breen and Taylor freely "admit" denying Plaintiff wound care supplies. Hydrogen Peroxide! Their attempt to separate...

1. Brief

1 ..the "cleaning agent" from the other "dry" supplies, such as gauze  
2 sponges, telfa, paper tape, etc., is totally asinine.

3 See: (Attachment #33 and #44)

4 Both defendants refused to acknowledge the "Chronic" Medical  
5 issues that Plaintiff was given a "permanent" Chrono for. CDCR's  
6 other Doctors realized the ongoing Chronic nature of the problems.  
7 CDCR, is supposed to be all one system. See:(Attachment #19 & #43)  
8 24.) Very simple, "why issue Plaintiff dry" supplies for wound care  
9 without: A.) An agent to clean the wound first? Such as peroxide.

10 B.) An agent to dress the wound after cleaning. Such as  
11 Anti-Biotic Ointment? See: (Attachment #24)

12 25.) That is totally illogical. One need not be a doctor to use  
13 common sense! Not opinion! "Chronic Care!" See:(Attachment #45)

14 26.) Plus Plaintiff had an open prescription from Lancaster, which  
15 is also a part of CDCR. "For Hydrogen Peroxide." See:(Attachment #3A/B)

16 27.) Refusing to issue a needed medication is Deliberate Indifference  
17 to a Serious Medical Need. Not just a difference of opinion.

18 .....The required subjective showing of deliberate indifference is  
19 satisfied, "when it is established that" the Official knew of and  
20 disregarded a substantial risk of serious harm to the prisoner's health  
21 or safety." (Johnson v. Meltzer, 134 F3d 1393, 1398 (9th Cir. 1998)  
22 (citing Farmer, 511 U.S. at 837)).

23 ....conditions that cause "pain" or discomfort or a threat to good  
24 health are serious. Rule 56 (C), Fed. Rule Civ.P. makes this a genuine  
25 issue of material fact. (Dean v. Coughlin, 623 F. Supp. 392, 404  
26 (S.D.N.Y. 1985)

27 28.) Plaintiff has had prescriptions specifically for the same...

1 ..."medication" Hydrogen Peroxide for decades. Plaintiff attaches  
2 only a few examples from "different prisons" at different times  
3 over the years. (See: Attachments #15 (Eleven examples)  
4 29.) There is no difference of opinion on the word CHRONIC! What  
5 part of that word did defendants not understand in Plaintiff's  
6 Medical History?? See:(Attachments #5 (A), #34)  
7 "Websters International Dictionary:" "CHRONIC:...a.) marked by "long  
8 duration," by "fequent recurrence" over a long time and often by  
9 "slowly progressing seriousness!!!" ....Chronic and substantial  
10 pain demonstrates a serious need..(Lavender v. Lampert, 242 F. Supp.  
11 2d 821, 845 (D. Or. 2002). (Attachment #41)  
12 30.) That describes the Plaintiff's Keloid issues perfectly!  
13 31.) Plaintiff cannot "selectively" cause any "exterior" drainage  
14 from his wounds. But the point is, that the "infection" of those  
15 wounds is on-going, "Chronic!" An the "end result" of the infections  
16 is "pus and blood" drainage. Had the defendants "actually" examined  
17 Plaintiff, or "actually" listened, they would know that Plaintiff has  
18 "pockets" in his <sup>a</sup>faci<sup>l</sup> Keloid, called "sinus tracts." (Attachment #5B)  
19 32.) An the only way to determine "any infection" would be to:  
20 A.) Accept Plaintiff's word. Infections are painful so why lie?  
21 B.) Use a Q-Tip and insert it into the sinus tracts, then send it  
22 to the Lab for a culture. (Attachments #5A, #5B)  
23 33.) But defendants Breen and Taylor's method is to "wait" until  
24 the infection is "so bad" that it has to shoot pus and blood down  
25 Plaintiff neck and clothes. Which is exactly what happened at CMC  
26 before in 1992 or 93, before Plaintiff received a response. Giving  
27 rise to the Original Suit since CMC refused to obey the Director.





34.) Plaintiff suffered infections on: September 30, 2018, October 24, 25, 26, 27, 28, 2018. November 8, 9, 12, 13, 14, 15, 16, 17, 18, 2018. December 5, 7, 12, 13, 14, 15, 16, 2018, at CMC-East. An Plaintiff has a sample culture of each of those infections. The Court and the defendants are welcome to "test and culture" each to verify there authenticity! ....worsening illness is indicative of imminent danger. (Brown v. Johnson, 387, F. 3d 1344, 1350 (11th Cir. 2004) (Almond v. Wisconsin, 2008 WL 2903574, \*1 (E.D. Wis. July 24, 2008)

Yet, on pg. 12, of defendants Motion for Summary Judgment defense states that ... "there was "no" condition that required "immediate care or treatment" as the "motivation" for defendant Breen referring Plaintiff to somebody other than a Dermatologist! (Attachments #41, #45) (#9)

Plaintiff has a "Chronic" history of Keloids with complications. Not just infections, pus, blood, drainage. But "pain," "pain," and more "pain." Twenty-four hours a day. Documented problems! Where in the Settlement does it say that the Plaintiff "should not" receive "immediate care??" Should he wait a month, a year, how long?

The Off-site Dermatologists have not been as much of a problem as "the second-guessers" in CDCR, the prison doctors! Keloids alone, just regular, without Plaintiff's complications, are painful! Defendant Taylor is a prime example. Obviously this defendant did not "bother" to "actually" read Plaintiff's Medical History. 99.9% of all "experts" agree that Keloid as a whole are painful. But defendant Taylor invents a note from 2016 UCSF! 1.) Plaintiff stop going to UCSF in 2012! 2.) Plaintiff was seen in "2016" by Riverside County Med. Center. Who told CDCR "specifically" to send Plaintiff to their "Pain Management Unit." They never did! See: (Attachments #17, #18)

"With" Plaintiff's extra complication, they are almost unbearable! The defendants quote the symptom of "redness" as a telltale sign of problems? Plaintiff is Black-skinned African-American. He doesn't turn red! Plaintiff's documented pain alone should have been enough for immediate care. (The 2016 Settlement was for the purpose of taking the decision "out" of the hands of prison doctors.) ...."the existence of "Chronic" and substantial pain "itself" demonstrates a serious medical need. (Lavender v. Lampert, 242 F. Supp. 2d 821, 845 (D. Or. 2002) ...lack of treatment was worsening his illness, sufficiently pleaded "imminent" danger of serious physical injury. (Brown v. Johnson, 387 F. 3d 1344, 1350 (11th Cir. 2004) (Mc Alphin v. Toney, 281 F. 3d 709, 711 (8th Cir. 2002))

#### POINT V

35.) Defendant Haar claimed and ridiculed Plaintiff's claim that he spoke with other defendants about Plaintiff and the 602 Grievance Plaintiff filed against Dr. Breen. See:(Attachment # 48..... Lines 15, 16 of Interrogatory #11) More perjury when the defendants procrastinate. (Attachement #38)

Yet "now" defendants "admit" in the Motion for Summary Judgment that defendant Haar and defendant Breen, did indeed discuss the fact that Plaintiff had filed a Grievance against Breen. Why?? That discussion was inappropriate, since defendant Haar was not the "Hearing Officer." See:(Attachment #34..pg. 6, lines 21-25.)

36.) The Legal Standard for Retaliation Claims is:

1.) An "assertion" that a state actor took some adverse action against a prisoner. See:(Attachment #2...Classification Chrono)

- 2.) Because of that prisoner's protected conduct. See:(Attachment #8...Their claim and use of the Settlement as protected conduct)
- 3.) An that such action "chilled" the prisoner's exercise of his First Amendment Rights. See:(Attachment #2...Transfer, loss of everything Plaintiff worked years for. Good time, property, free from major threat of harm with no witnesses.)
- 4.) The action "did not" reasonably advance a legitimate correctional goal. (See Point III, no need for transfer at all.)
- (Rhodes v. Robinson, 408, F. 3d, 559, 567-68 (9th Cir. 2005)
- 5.) CDCR, has a habit of trying to chill Plaintiff's litigation by using what prisoner's call "bus therapy." Plaintiff has been transferred more than any other prisoner he knows of. See:(Attachement #9)

POINT VI

37.) TIMING:==In this case the "timing more than proves" direct "Retaliatory" intention from the very beginning.

In the 'Motion For Summary Judgment', their words. The defendant claims on (Pg. 17...line 5, that the timing does..not support the claim of Retaliation because Dr. Haar's last order to transfer the Plaintiff was four months after the filing of the 602 Grievance.

"Not So!" Another Lie! (Attachment # 39)

Plaintiff filed Grievance on: September 14, 2018 (Attachment #8)

A.) See: Order Referral to Dermatology details: September 24, 2018.  
quote:...awaiting custody transfer! See:(Attachment #8)

B.) See Motion for Summary Judgment:...Pg. 6..lines 21-25. September 18, 2018 : "Four Days Later."...Defendant Haar and Breen discussed the trouble making Plaintiff on the phone! See:(Attachment #34)

C.) On September 24, 2018: Just "Six days later", defendant Haar..

1 ..was "already moving" to get rid of Plaintiff.

2 By Defendant's own records! What greater evidence of "quick  
3 timing" can be shown! An look at the adverse results!

4 Even though Custody initially delayed the transfer, attempting  
5 to give Plaintiff a break. Defendant Haar was "plotting and  
6 pushing" to have Plaintiff transferred "mere days" after Plaintiff  
7 filed a Complaint against "his doctor."

8 38.)"Retaliatory motive may be shown by the "timing" of the  
9 allegedly retaliatory act and "other" circumstantial evidence as  
10 well as "direct" evidence!

11 (Quiroz v. Horel, 85 Supp. 3d 1115, 1124, (N.D. Cal. 2015)  
12 (emphasis added)(citing: Bruce v. Ylst, 351, F. 3d 1283, 1289  
13 (9th Cir. 2003)

14 A.) Defendants did not follow any treatment regimen while the  
15 Plaintiff was at CMC-East. Their idea was to "pass the buck."  
16 ...treatment consisted of little more than documenting Plaintiff's  
17 worsening condition...etc...not withstanding frequent examinations  
18 and "eventual" referral to a specialist.) Twin Case!

19 (Ruffin v. Desperio, 97 F. Supp. 2d 346, 353 (W.D.N.Y. 2000)

20 39.) Defendants admit that submitting a Grievance is protected  
21 conduct. (E.G., id. 567, Brodheim v. Cry, 584 F. 3d 1262, 1269  
22 (9th Cir. 2009)

23 Yet defendant Haar discussed Plaintiff's Grievance "off the record".

24 40.) Defendant Haar and Breen were not "just" discussing Plaintiff's  
25 Medical Treatment. The 602 Grievance "did not" complain about the  
26 distance that treatment might entail. It complained about defendant  
27 Breen, period!! See: (Attachment #34)

1 A.) At no time did defendants have any intention of obeying the  
2 Settlement and sending Plaintiff to a Dermatologist. An they told  
3 Plaintiff that they had no intention of sending him to an outside  
4 Dermatologist. Using the Settlement only as Retaliation.

5 See: (Attachment #25)

6 41.) Defendant Haar "lied" about a Dermatologist not being "near"  
7 CMC-East, as the "motivation" to transfer Plaintiff. (Attachment #32)

8 Defendant Haar "lied" about the "timing" of his order to transfer  
9 Plaintiff. The "order" being mere days later. (Attachment #8)

10 Defendant Haar "lied" about discussing Plaintiff and the Grie-  
11 vance Plaintiff filed with other defendants. (Attachment #34)

12 42.) Defendant Haar "lied" about any "prison officials" giving him  
13 advice on how to get rid of Plaintiff. (Attachment #35 & 36)..See:  
14 Interrogatory #14, pg. 12)... Yet in the Motion for Summary Judg-  
15 ment pg. 8...lines 10-11. Defendant Haar admits to calling CDCR's  
16 Office of Legal Affairs! See:(Attachment #36) 36

17 POINT VII

18 43.) \$COST, "cannot" and "must not" play any part in whether a  
19 prisoner is provided with needed Medical Care!

20 A.) Anyway, CDCR agree<sup>d</sup> to The 2016 Settlement to "provide" Plain-  
21 tiff with Medical Care for his Keloid problems. "Which includes the  
22 Cost!"

23 44.) Now! defendant's claim that "saving money" for CMC by not  
24 having to transport Plaintiff, was a legitimate correctional goal!

25 Motion For Summary Judgment...Pg. 19..lines 16-17:...quote:...to  
26 transfer Plaintiff had a "net positive" impact on other inmates and  
27 on the "allocation" of prison "resources" generally, given that....

1 ...Plaintiff would require "limited transportation resources" for  
2 frequent lengthy travel to see a Dermatologist!! (Attachment #~~44~~) #24  
3 45.) This stands forth as another example of "illegitimate" motives  
4 of the defendant. Again, the Settlement took care of Plaintiff's  
5 individual \$costs. But, cost should never play a part in needed  
6 Medical treatment. ....holding that \$cost should not be a factor  
7 in providing medical care for a serious ailment. (Monmouth County  
8 Correctional Institution for Inmates v. Lanzaro, 834, F.2d 326-336-  
9 37, 347 (3d. Cir.1987) (Ancata v. Prison Health Services Inc. 769,  
10 F.2d 700,704 (11th Cir. 1985)  
11 46.) As this Court will note from past Records, Plaintiff's visits  
12 to all past Dermatologist's were "6 to 8 Weeks" so-called frequent  
13 visits.

14 POINT VIII

15 47.) Defendant's also state in the Motion for Summary Judgment:  
16 Pg. 18-lines 15,16,17..quote:...ensuring the safety and security,  
17 including life and health of inmates is a legitimate correctional  
18 goal.

19 Defendant's obviously failed miserably. By trying to kill the  
20 Plaintiff to cure him!

21 (Nevada Dept. of Correc. v. Greene, 648 F.3d, 1014, 1018 (9th Cir.2011)

22 48.) In essence by defendant's actions in transferring Plaintiff  
23 again, they are saying that "all" the Counselors, Captain, Assoc.  
24 Warden's, Warden, Doctors, Director of Corrections Representatives  
25 etc. Who knew for years about the Settlement and knew Plaintiff for  
26 years, yet allowed Plaintiff to be transferred to CMC, were all  
27 Indifferent to Plaintiff's Medical Needs?? I don't think so!

1 Defendant Haar, who knew "nothin' about Plaintiff,"wants the  
2 Court to believe that he was so concerned about Plaintiff that  
3 he ordered Plaintiff to be move into "a worse environment" for  
4 Plaintiff's Health and Safety!

5 But Lancaster Staff who knew Plaintiff for years moved Plaintiff  
6 to a better physical environment, requested by Plaintiff, somehow  
7 ignored Plaintiff's Medical Needs by shipping him to CMC?

8 NO!! It is "more plausible" based on the evidence that it was  
9 defendant Haar who "was not" concerned at all about Plaintiff's Life  
10 or safety, or health! So he ordered Plaintiff to be sent on a  
11 twelve (12) hour journey because of a Grievance? What about substan-  
12 tial pain and Chronic serious medical need is hard to understand?  
13 Plaintiff never again had to expect or could imagine having to go  
14 through the displacement and "pain," of transfer.

15 POINT IX

16 50.) CDCR HEADQUARTERS: On 602 Grievance already had made a ruling  
17 on just what CDCR's "interpretation" of exactly what "near" the  
18 institution where Plaintiff is housed...means to CDCR!

19 In writing!! An "they" chose not to make any changes to Plaintiff's  
20 Medical treatment, "irrespective of distance!" That decision was  
21 made "prior" to Plaintiff's Transfer. An it goes "totally" contrary  
22 to defendant Haar's interpretation and excuses. (Attachment #4)

23 51.) POINT:...Doesn't defendant Haar work for CDCR?? Or does he?

24 52.) As for defendants Breen and Taylor, they totally disregarded  
25 and ignored the 2016 Settlement. All defendant also stand in Breach  
26 of "Contractual" obligation. The 2016 Settlement is a Contract.  
27 (Although a Separate Suit).

1 The last Primary Care Provider for Plaintiff was Dr. Tiggs  
2 Brown. Defendant's Breen and Taylor refused to honor the pre-  
3 scription from Dr. Brown for Hydrogen Peroxide. All prisons  
4 are supposed to be a part of CDCR. The prescription was  
5 current. See: (Attachments #3A & B)

6 POINT X

7 These defendant's are not eligible for qualified immunity.  
8 All defendants are clearly culpable. An the Court must  
9 accept the allegations as true, (they are), when determining  
10 whether a defendant is entitled to immunity. (Butler v. San  
11 Diego Dist. Attorney's Office, 370 F. 3d 956, 963 (9th Cir.  
12 2004);see also..Mitchell v. Forsyth, 472, U.S. 511, 526, 105  
13 S. Ct. 2806, 86 L. Ed. 2d 411 (1985).

14 All defendants blatantly disregarded a "Chronic" medical  
15 problem. Not to mention the slew of other ailments the Plain -  
16 tiff suffers from at 73 years of age. The actual medication  
17 they offered Plaintiff/Petitioner for 'pain' is totally in-  
18 effective. It is CDCR's "miracle drug." It cures all of  
19 prisoners ailments. It's "Tylenol." Defendants, despite the  
20 Settlement refused outright to send Plaintiff to a Specialist .  
21 Their idea is "take one aspirin and call me when you're dead.

22 Petitioner's decades long history of Chronic Keloid infec-  
23 tionss and consistent extreme pain. Were evidence enough to  
24 prove that Defendant's Breen and Taylor knew there was a se-  
25 rious risk of harm to Plaintiff and disregarded it. Simply  
26 because their were no apparent signs of infection when they  
27 just looked without any examination. Proven pain is enough!

28 Estelle v. Gamble 429 U.S. 97 (1976)



POINT XI

Petitioner charged defendants with "corrupt" motives. The District Court and upheld by the 9th Cir. the Magistrate Judge's statement, that regardless of what defendant's motives were, they had a legitimate correctional goal.

This Honorable Court should note that the defense; "did not make the claim of "any" legitimate correctional goal in any of their "original" responses to the Complaint. Nor was it made on any previous similar Suits.

So, Petitioner, using the the rationale that CDCR couldn't have it both ways. Filed a 1983 Suit against the doctors of the previous prison. Using the same premise that defendant Haar used to justify transferring Plaintiff to Donovan State Prison. Rather than obey the Settlement and send Plaintiff out to treatment from CMC. (i.e. that CMC claimed they were so concerned that Plaintiff had to travel to far to see a Dermatologist.) (Just a lie to get rid of Petitioner.)

Since at the previous prison, Plaintiff had filed a prison Grievance alleging just that fact. CDCR, of course, denied the Grievance. An I believe set a precedence. Stated, that it was okay to "transport" Petitioner "long distances" to surgery. Therefore their Superiors laid the groundwork and set the standard for Petitioner's future Medical Treatment. Petitioner's logic was that if the Judge accepted CMC's argument; (about concern for distance for treatment.) Then, the opposing Suit of Petitioner's original position which CDCR Headquarters denied, would prevail! (Attachment #4)

Yet, the "same" Magistrate Judge rejected the other.....

1 ...Suit outright. Petitioner asserts that the denial was not  
2 only prejudicial, but also contradictory on the part of that  
3 Judge. Another point is that Plaintiff/Petitioner never ag-  
4 reed to a Magistrate Judge to hear the case. An of all the  
5 Suits Petitioner has ever filed, he has never experienced any  
6 Judge who "granted defendant's Motions" on the "same day" they  
7 were filed. As this Judge has done. Petitioner complained  
8 but to no avail.

9 \*Another point, is that the Cases cited by the Court to  
10 deny Plaintiff's Opposition to Summary Judgment, do not have  
11 any applicable legal standing in Petitioner's Case.

12 One example is Padgett v. Wright...etc. Plaintiff/Petitio-  
13 ner did not raise any new arguments, as stated in that case.  
14 Only merely answered defendant's assertions in their responses  
15 merely using their own statements to prove their lies.

16 In Petitioner's case, as in Farmer v. Brennan, the prison  
17 "inexplicably" discareded it's own rules and in doing so,  
18 evinced Deliberate Indifference to Plaintiff's Serious Medi-  
19 cal Condition.

20 By the contradictory act of only issuing bandages for wounds  
21 without issuing any cleaning agent or gauze for sanitizing  
22 those wounds.

23 Petitioner more than demonstrated and "excessive" risk to  
24 his health and safety. By defendant's denial of needed medi-  
25 cation. Petitioner demonstrated an excessive risk to his  
26 continued health. He had been receiving that medication for  
27 decades. In addition Petitioner proved that he still had and  
28 open "prescription by attaching a copy of the label for it.

1 In addition Petitioner more than showed a very substantial and  
2 motivating factor behind defendant's conduct. An only put forth  
3 evidence designed to show defendant's present and past retaliatory  
4 motives. That motive should have been taken in the light most  
5 vacorable to Plaintiff and presented as a dispute of a genuine  
6 issue of material fact. (Bruce v. Ylst, 351 F.3d 1283, 1289 (9th  
7 Cir. 2003) (Brodheim v. Cry, 584 F. 3d 1262 (Oct. 28, 2009)

8 The District Court and the 9th Circuit "erred" when it stated  
9 that Petitioner failed to raise a genuine dispute of material fact  
10 as to whether Dr. Haar's (order), to transfer Petitioner did not  
11 reasonable advance a legitimate correctional goal.

12 The "language and excuse" constantly used to absolve defendant  
13 Haar, is not the language of "fact!" Defendants (as I've said  
14 before) constantly attempt to convince the Court that defendant  
15 Haar merely recommended transfer. "Not so!" Defendant's conduct  
16 clearly shows he had a personal grudge against Petitioner. Fact!

17 Read the "Classification Chrono clearly states very clearly that  
18 defendant Haar and defendant Haar alone "determined" that Petition-  
19 ner should be transferred. Before Petitioner filed the 602 Com-  
20 plaint/Grievance against one of "his" Doctors defendant wasn't  
21 concerned about Petitioner's Medical Treatment! (Attachment #2)  
22 Defendant Haar's authority equals that of a Prison Warden. In a  
23 purposeful "mis-"interpretation of Plaintiff's Out of Court Settle-  
24 ment, defendant Haar lied to the Classification Committee. In order  
25 to retaliate against Plaintiff/Petitioner for filing a Grievance  
26 against "his" doctor. Again the Settlement Agreement language is  
27 plain. "Send Plaintiff to a doctor near the prison where he was  
28 at." CMC has a reputation among prisoners for shipping out prolems.

1 Facts of very apparent lies:

2 1.) The lie of distance being a factor in Medical Treatment.

3 (There were two Dermatologists within 25 miles of the prison.)

4 2.) \$Cost! The statement that they needed to save money for other

5 prisoners treatment. (Petitioner's Out of Court Settlement

6 already "agreed" to pay for Medical costs.) (Attachment #1)

7 So how could that be a legitimate correctional goal??

8 3.) Nor did defendant's "original response" mention \$Cost as part

9 of the reason for transferring Petitioner! (Attachment #23)

10 A.) REASONS NORMALLY GIVEN FOR SUPPOSED LEGITIMATE CORRECTIONAL

11 GOALS:

12 1.) Whether the regulation is rationally related to a legiti-  
13 mate and neutral governmental objective.

14 2.) Whether there are alternative avenues that remain open  
15 to the prisoners to exercise their rights.

16 3.) The impact that accommodating the asserted right will  
17 have on other prisoners and guards and on the allocation  
18 of prison resources.

19 4.) Whether the existence of easy and obvious alternatives  
20 indicates that the regulation is an exaggerated response  
21 by prison officials. (As in Petitioner's case).

22 B.) Why did the Court allow defendants to invent a new reason for  
23 transferring Petitioner, contrary to their original response?

## REASONS FOR GRANTING THE PETITION

1.) This Petition should be granted, because the U.S. Constitution was violated. There was no Legitimate Correctional Goal.

Petitioner understands that prisoners give up many of the rights that other citizens have. But, the use of the term; "legitimate correctional goal" should not be allowed to justify "extreme" abuse of Morality of Ethics! "Derrick Chauvin" felt that he had a legitimate goal in restraining "George Floyd." The "difference" was "the method" used to accomplish that goal! "Corruption and personal" retaliation should not be ignored as a "causitive" factor. In the instant case there was obviously no legitimate goal:

A.) There were absolutely "no safety or security" issues.

B.) There were no life threatening Medical concerns.

C.) The Out of Court Agreement formed new regulations specifically for Petitioner!

2.) This Petition should be granted;...to determine if Settlement Agreements made by "Prison Superiors" are binding on lower level administrators who work in that prison system. An therefore, those lower echelon staff cannot "second guess" or reinterpret what might, or might not be a legitimate correctional goal.

3.) This Petition should be granted:...to determine if an Out of Court Settlement itself sets the precedent and details exactly what a legitimate correctional goal is for specialized medical treatment for a specific prisoner. Therefore "negating" any "Non-emergency" changes to that Settlement's original interpretation.

4.) This Petition should be granted:...to set precedence as to the "degree" of the "right of a prisoner to refuse or forgo" non- life threatening medical treatment.

1 Such refusal, when based on a "greater" need for "Rehabilitative  
2 Programs" that would further help the prisoner gain his freedom.

3 5.) This Petition should be granted:...to set precedence as to  
4 whether prisons can use \$Money as and excuse for not giving prisoners  
5 needed medical treatment. (Especially after "having specified" in an  
6 Out of Court Settlement" that they agree to pay the Medical Bills?)

7 6.) This Petition should be granted:...to determine if it is "un-  
8 ethical" for the same Judge to dismiss a Suit that argues and agrees  
9 along the same lines as another Suit with different defendants that  
10 the same Judge upheld as a "valid argument" for other defendants. If  
11 "one is wrong, the opposite argument" would be right! Or the "reverse"  
12 one is right and the opposite is wrong!

13 7.) This Petition should be granted:...to clarify just "what is,  
14 or what isn't" genuine issues of material fact."

15 8.) This Petition should be granted:...to set precedence and prevent  
16 an "adverse action" being taken against a prisoner attempting to gain  
17 enforcement of his Settlement Agreement in a way not designed to help  
18 him. But to hurt him.

19 9.) This Petition should be granted:...to set guidelines for some  
20 type of "Federal Oversight" for Out of Court Settlement Agreements that  
21 were reached in a "Federal" Court. When it involves the Health and  
22 Safety of prisoners. (Regardless of whether it is a Consent Decree.)  
23 A Federal Court should automatically retain jurisdiction for it's own  
24 decisions. Petitioner's logic, is that any Settlement reached in  
25 Federal Court should be subject to the standards of Breach of Contract.  
26 An Agreement reached in State Court would be Breach of Contract for  
27 State cases only. Consider that most prisoners are Pro Se and therefore  
28 not able to afford the large filing fee charged in State Court.

1 Another major obstacle, using Petitioner's Case as an example  
2 is the constant transfers from County to County. Since this  
3 action alone first began Petitioner has been transferred six  
4 (6) times. Forty three (43) times total, the last 46 years.  
5 Transfers designed to impede his ability to file a Complaint  
6 to the Courts.

7 10.) The most "glaring fact" is that defendant's whole lie  
8 for justification to transfer Petitioner to Donovan, was claimed  
9 need to be closer to a doctor for Medical Treatment. Yet, once  
10 again Petitioner was transferred. And on the very day of trans-  
11 fer from Donovan Prison Petitioner had a scheduled Outside Medical  
12 Appointment. Which was never completed. So defendants are not  
13 only "liars but hypocrites" as well. And further Petitioner was  
14 again transferred from Folsom Prison to now Solano Prison.

15 A.) So the idea that it was a needed legitimate correctional  
16 goal that was used to specifically transfer Petitioner to a  
17 particular prison, Donovan for medical reasons is ludicrous.

18 B.) Genuine Fact: Petitioner has been transferred more times  
19 than any prisoner in the state of California. Why? Bus Therapy.  
20 I'm a litigator and CDCR are the ones who keep violating their  
21 sworn word in these Settlement Agreements. Not me!

22 C.) All three doctor defendants are conspirators to both  
23 retaliate against Petitioner and continue to practice Deliberate  
24 Indifference to Petitioner's Serious Medical Needs.

25 CONCLUSION

26 Any reasonable trier of fact would be able to see through the  
27 obvious ruse' used by defendant Haar to get rid of Plaintiff. At  
28 Trial Petitioner would have been able to show that CMC-East has...

1 .....a history of retaliatory behavior against prisoners. But, the  
2 so "obvious" lies by defendants clearly show disagreement of genuine  
3 issues of material fact:

4 1.) First, the lie that defendant Haar told in the response to  
5 Petitioner's Complaint. Was that he merely recommended Petitioner's  
6 transfer. The Classification Committee as you've seen on the Chrono  
7 gave the lie to that assertion. They used the real word for his  
8 actions. "Determined!" From beginning to end defendant Haar pushed  
9 the transfer. (Attachment #2)

10 2.) The "extravagant lie", that any Contract Doctor, with any  
11 Department of Corrections, could refuse to treat a specific patient.  
12 A patient who has mandated treatment. Is so blatantly false it  
13 defies explanation. An all the while they are treating other  
14 prisoners at the same prison? That's laughable! An further, until  
15 Discovery defendants lied to the Court by stating the nearest Doctor  
16 was in Bakersfield. To far, so they claimed. Yet, two Dermatologists  
17 were within a 25 mile radius of CMC. (Attachment #32)

18 It wasn't until Petitioner, thru' a friend discovered they were  
19 so close. That defendant's came up with the "fairy tale" that the  
20 "nearby Dermatologists" weren't accepting any new patients.

21 A.) Unless those other patients had life-threatening ailments  
22 or were suffering worse than Petitioner. Petitioner's Out  
23 of Court Settlement gave him precedence over any other  
24 prisoners. In Haar's medical RECORDS he said he trans-  
25 ferred Petitioner because of a "Court Order." It wasn't,  
26 but if he thought so realistically why didn't he obey it  
27 like a Court Order? (Attachment #8)

28 3.) Next lie:...That defendant's were somehow obeying the....



1 ...Out of Court Agreement, by disobeying it!!! The Settlement  
2 Agreement has plain language, quote;...Send Plaintiff to the  
3 "nearest Dermatologist" to the prison he is incarcerated in.  
4 Again, not send Petitioner to a "prison near a doctor."

5 4.) The transfer was vindictive. It was totally unnecessary.  
6 Petitioner as this Court can read on the Classification Chrono  
7 offered to sign a "Disclaimer" to refuse or "delay" Medical  
8 treatment while he completed programs designed to FACILITATE his  
9 release from prison. That alone was Cruel and Unusual Punshment.  
10 5.) The California Dept. of Corrections and Rehabilitation(CDCR)  
11 is one entity. The same information and the same conditions existed  
12 before Petitioner was transferred to CMC-East. Yet, "nobody"  
13 questions the "fact," that CDCR Headquarters approved the transfer  
14 with foreknowledge of Petitioner's Medcal Out of Court Settlement.  
15 An later, again approved Petitioner for another transfer. An since  
16 has transferred Petitioner "twice" (2) more. Yet defendant Haar's  
17 whole argument was that Petitioner must be sent to Donovan Prison  
18 for Medical Treatment.

19 6.) CDCR, violated their own Regulations in addition to the  
20 Settlement Agreement. Without Life-Threatening Circumstances a  
21 prisoner can refuse surgery. The transfer was designed to continue  
22 the pursuit of constant "retaliation" against Petitioner. An to  
23 have a "Chilling Effect" by manipulating and "intentional misreading"  
24 of Petitioner's own Settlement Agreement.

25 Finally, defendant Haar's actions do not even pass the "Laugh Test."  
26 The illegality and illogic would be so obvious, that any prison offi-  
27 cial that was involved should have known they were breaking the law.  
28 (Cruz v. Beto, 405 U.S. 319, 92 S. Ct. 1079, 31 L. Ed 2d 263 (1972);

1 O'Keefe v. Van Boening 82 F. 3d 322, 325 (9th Cir. 1996) Sorrels,  
2 290 F. 3d at 971.

3 (Also, in the current case, despite exact past circumstances,  
4 prison officials "may not" defeat a "retaliation claim"...simply  
5 by articulating a "general justification" for a "neutral" process,  
6 when there is no genuine issue of material fact as to whether the  
7 action was in retaliation for the exercise of a Constitutional right.

8 A.) There is "no possible" was a trier of fact can misinterpret  
9 the language of Petitioner's Out of Court Settlement Agreement. An  
10 would see that defendant Haar only used it as a shield for retali-  
11 tion against Petitioner. His numerous lies prove that fact. First  
12 he claimed he didn't discuss the Grievance, then we find that he  
13 and defendant Breen discussed everything.

14 B.) Bruce, 351 F. 3d at 1289...."the policy against retaliation  
15 applies "even" where the action taken would otherwise be permissible.

16 (Smith v. Maschner, 899 F. 2d 940, 948 (10th Cir. 1990); accord  
17 Woods v. Smith, 60 F. 3d 1161, 1165 (5th Cir. 1995).

18 Bruce clearly has established that prison officials may not abuse  
19 a valid procedure as a cover or a ruse to silence or punish a priso-  
20 ner! 351 F. 3d at 1289. Petitioner's Case is a "text book" example  
21 of a blatant misuse of that standard.

22 Lastly, Petitioner has endured decades of this "pass the buck"  
23 medical mis-treatment. Petitioner seeks justice and accountability  
24 for decades of wanton retaliation for his fight to correct a medical  
25 condition caused by a CDCR doctor who wantonly excaberated miniscule  
26 wounds.

27 For those reasons, in the interest of Justice this Writ should be  
28 granted. I pray this Honorable Court will also appoint Counsel.

As Petitioner is sure this Honorable Court knows, I am no Attorney! Petitioner did the best he could with available resources. Just recently gaining access to a typewriter. I'm in super-pain even as I spent months preparing this Writ. Thank you for your valuable time and consideration.

Under penalty of perjury the foregoing is true and correct.

#### CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Saladin Rushdan (aka: Woods)

Date: ~~April 25, 2023~~  
May 1, 2023  
(SRW)