

STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT COURT

ALEXIA NIETO, JASMINE VALDEZ,
SANDY MUNOZ-FLORES,
TANYA BECENTI, and VANESSA MOYA.

Plaintiffs,

v.

NO. D-101-CV-2025-00692
Case assigned to Sanchez-Gagne, Maria

STATE OF NEW MEXICO and
NEW MEXICO CORRECTIONS DEPARTMENT,
SUMMIT FOOD SERVICE LLC;
SUMMIT FOOD SERVICE MANAGEMENT, LLC;
WEXFORD HEALTH SOURCES, INC.

Defendants.

**PETITION FOR DECLARATORY ACTION AND INJUNCTIVE RELIEF UNDER THE
NEW MEXICO CIVIL RIGHTS ACT**

COMES NOW PLAINTIFFS, by and through their attorneys Collins & Collins, P.C.
(Parrish Collins), and bring this action for preliminary injunctive relief under the New Mexico
Civil Rights Act (NMSA § 41-4A-3 and declaratory relief under the Declaratory Judgment Act
(NMSA 1978 § 44-6-1 et seq.). For their cause of action, PLAINTIFFS state as follows:

I. PARTIES

A. PLAINTIFFS

1. Alexia Nieto is and was an NMCD inmate housed at WNMCF at all times relevant
to this Petition. Ms. Nieto contracted H. pylori as a result of feces contaminated food and water.
Affidavit attached as Exhibit A.

2. Jasmine Valdez is and was an NMCD inmate housed at WNMCF at all times relevant to this Petition. Ms. Valdez contracted H. pylori as a result of feces contaminated food and water. Affidavit attached as Exhibit B.

3. Sandy Munoz-Flores is and was an NMCD inmate housed at WNMCF at all times relevant to this Petition. Ms. Munoz-Flores contracted H. pylori as a result of feces contaminated food and water. Affidavit attached as Exhibit C.

4. Tanya Becenti is and was an NMCD inmate housed at WNMCF at all times relevant to this Petition. Ms. Becenti contracted H. pylori as a result of feces contaminated food and water. Affidavit attached as Exhibit D.

5. Vanessa Moya is and was an NMCD inmate housed at WNMCF at all times relevant to this Petition. Ms. Moya contracted H. pylori as a result of feces contaminated food and water. Affidavit attached as Exhibit E.

DEFENDANTS

6. Defendants NEW MEXICO CORRECTIONS DEPARTMENT (NMCD) and all NMCD correctional facilities are entities of the State of New Mexico.

7. Western New Mexico Correctional Facility (WNMCF) is NMCD facility.

8. NMCD retains ultimate authority and responsibility over all NMCD facilities in accordance with NMCD rules, policies, and procedures.

9. At all times relevant to this Petition, NMCD acted through its respective officers, directors, employees, agents, or apparent agents.

10. Summit Food Service Management, LLC, a New Mexico **Domestic Profit Corporation** entered into Food Services Contract #20-000-00-00070 on or about November 1,

2012. Summit continues to provide food services to NMCD. Upon information and belief, the contract was renewed under Summit Food Service, LLC, a New Mexico Domestic Limited Liability Company, who is now providing food services to NMCD.

11. At all times relevant to this Complaint, Summit Food Service Management, LLC and Summit Food Service, LLC (collectively referred to as Summit) acted through its owners, officers, directors, employees, agents or apparent agents, including, but not limited to, administrators, management, inmates and other staff, and is responsible for their acts or omissions pursuant to the doctrines of *respondeat superior*, agency, or apparent agency.

II. JURISDICTION AND VENUE

12. All acts complained of herein occurred within NMCD facilities throughout the State of New Mexico.

13. PLAINTIFFS have exhausted administrative remedies under N.M. Stat. Ann. § 33-2-11.

14. Jurisdiction and venue are proper under NMSA § 38-3-1, NMSA § 44-6-2, and NMSA § 41-4A-3.

III. STATEMENT OF FACTS

A. Longstanding and Ongoing H. pylori Crisis

16. *Helicobacter pylori* (*H. pylori*) is a bacterium that infects the stomach lining and is commonly transmitted via oral-oral or fecal-oral routes.

17. *H. pylori* infection typically manifests as abdominal pain, often described as a dull or burning sensation, particularly severe when the stomach is empty. Accompanying symptoms may include bloating, excessive burping, nausea, and in some cases, vomiting.

18. The infection may also lead to alterations in appetite, notably a loss thereof, which can result in unintentional weight loss. Additionally, patients frequently report heartburn, a burning sensation that occurs post-meal.

19. One of the more severe direct outcomes of *H. pylori* infection is the development of peptic ulcers. These ulcers are painful sores on the stomach lining and the upper part of the small intestine, which, if left untreated, can lead to serious complications including bleeding, perforation, and gastric obstruction.

20. Following the eradication of *H. pylori*, some patients continue to experience gastrointestinal discomfort such as persistent stomach pain, bloating, and indigestion. These symptoms may stem from residual damage to the stomach lining or co-existing gastrointestinal disorders.

21. In cases where the infection has been treated, there remains a risk of recurrence, which can necessitate further treatment and monitoring to ensure complete eradication of the bacterium.

22. The most serious risks associated with *H. pylori* infection include its role as a significant risk factor for gastric cancer and mucosa-associated lymphoid tissue (MALT) lymphoma. These conditions represent severe and potentially life-threatening complications arising from chronic infection, particularly in patients with compromised immune systems or those who experience persistent, untreated infection

23. On March 26, 2023, the Legal Director at ACLU of New Mexico, wrote to Warden Rick Whitten about multiple cases of *Helicobacter pylori* (*H. pylori*) at the Western New Mexico Correctional Facility, Women's North Facility (WNMCF), highlighting the symptoms and potential severe consequences of untreated infections.

24. The ACLU's letter reported failures in proper testing and treatment for H. pylori, discontinued use of hospital-grade germicides for cleaning, and issues with the cleanliness of kitchen trays and meals served on dirty trays.

25. The letter also noted a nurse who reportedly refused to refer symptomatic patients for testing and urged the facility to reinstate hospital-grade germicide use, ensure proper cleaning of food trays, and provide necessary testing and treatment to prevent an outbreak.

26. Warden Rick Whitten responded on April 10, 2024, acknowledging the concerns raised about potential H. pylori outbreaks and emphasized the facility's serious approach to health threats assuring the ACLU that the H. pylori situation was under control.

27. Since Warden Whitten's response to the ACLU letter, PLAINTIFFS have all contracted H. pylori.

28. A large number of women at WNMCF, with inmate estimates of well over one half the women housed at WNMCF, have contracted H. pylori as a result of filthy kitchen conditions, failures to properly clean the kitchen, cooking and serving ware and utensils.

29. There is a longstanding, persistent and ongoing infestation of pigeons, rodents and cockroaches in the kitchen and chow halls.

30. The entire prison grounds are infested with pigeons. The meals had been for a lengthy period of time transported on carts outside in open air. The carts were being left exposed to pigeons. The food trays were served with pigeon feces, both new and old due to lack of proper cleaning of the trays.

31. Recently, the women at WNMCF have been returned to the chow hall for meals which the women assert is overrun with pigeons, rodents and cockroaches, making the food conditions even more dangerous to their health.

B. Food Conditions

32. PLAINTIFFS along with many other women at WNMCF have reported abhorrent and dangerous food safety issues that have led to the longstanding and ongoing h. Pylori outbreak including:

- a) Numerous inmates at the Western New Mexico Correctional Facility (WNMCF) tested positive for *Helicobacter pylori* (*H. pylori*) and experienced severe gastrointestinal symptoms, including stomach pain, nausea, vomiting, bloody diarrhea, and acid reflux.
- b) Despite receiving antibiotic treatment for *H. pylori* infections, many inmates continued to suffer from persistent symptoms without adequate follow-up medical care.
- c) Food trays were frequently left outside, exposing them to contamination from pigeons that landed on and defecated on the trays before they were used to serve meals.
- d) Kitchen staff and inmates working in the kitchen failed to follow proper hygiene practices, such as washing hands, cleaning trays thoroughly, and maintaining sanitary food preparation areas.
- e) The prison kitchen lacked a functioning dishwasher or hot water, leading to improper cleaning of food trays and utensils.
- f) Mold and rat infestations were reported in the kitchen and food storage areas, including reports of dead mice discovered during deep cleaning efforts.
- g) Food portions were inadequate, and inmates regularly received expired or spoiled food, including sour milk and rotten produce.

- h) Meals were often delayed or served cold, particularly when food was transported from off-site locations instead of being freshly prepared.
- i) Medical staff routinely ignored or dismissed inmate complaints about foodborne illnesses, often offering only basic over-the-counter medication, such as Pepto Bismol or Simethicone, instead of conducting thorough medical evaluations.
- j) Inmates with dietary restrictions, including those on medical and religious diets, were routinely denied appropriate meals, forcing them to eat contaminated or nutritionally inadequate food.
- k) Inmates who filed grievances regarding food quality and kitchen sanitation often experienced retaliation, including being ignored by prison staff or threatened with disciplinary action.
- l) Inmates forced to work in the prison kitchen observed that cleaning was often rushed or only performed thoroughly before inspections, rather than as part of routine maintenance.
- m) Food trays and carts regularly arrive wet and improperly dried, creating an environment where bacteria could thrive and increase the risk of illness.
- n) Some inmates experienced repeated *H. pylori* infections, suggesting ongoing contamination issues that were not properly addressed by prison officials.
- o) Lockdowns and facility restrictions often worsened food safety issues, as inmates were left with no choice but to eat whatever was provided, even when it was visibly contaminated or spoiled.

- p) Medical care for food-related illnesses was inconsistent, with some inmates receiving antibiotics while others were left untreated or denied necessary medical evaluations.
- q) Multiple complaints and grievances regarding food conditions, sanitation, and illness were filed, but no substantive improvements were made, and the prison administration failed to take corrective action.
- r) Food service conditions have not improved since the Notices of Claims were filed, and inmates continue to suffer from the same health and safety risks.

33. Paragraphs 36 (a, b, e, f, g, i, j, n, p, r) violate N.M. CONST. ART. II, § 13 by describing ongoing foodborne illnesses, exposure to unsanitary conditions, inadequate medical treatment, and prolonged suffering due to the prison's failure to ensure food safety and proper healthcare.

34. Paragraphs 26 (k, q) violate N.M. CONST. ART. II, §§ 18 & 4 by highlighting the systematic dismissal or non-response to grievances, failure to address serious health complaints, and the ongoing lack of meaningful procedural safeguards for inmate health and safety.

35. PLAINTIFFS' affidavits along with those of other women at WNMCF are attached hereto as Exhibits A-G.

IV. NMCD's NON-DELEGABLE DUTY TO INSURE FOOD SAFETY

36. NMCD has a nondelegable duty to provide for the health and safety of NMCD inmates which includes the constitutional duty to provide for food safety.

37. There is currently a severe, widespread and ongoing epidemic of H. pylori at WNMCF. NMCD and Summit have refused to take action to properly address the epidemic.

38. The food served by Summit and NMCD is contaminated with pigeon feces and other contaminants.

39. The food trays are not properly cleaned so there is prior day's food on the trays along with fresh and stale pigeon feces.

40. The kitchen facilities are contaminated and overrun with pigeons, rodents and cockroaches and are unfit for use for preparation and storage of food.

41. The chow hall is overrun with pigeons, rodents and cockroaches.

42. The food has caused a medical crisis among the women at WNMCF. Numerous inmates have estimated that the majority of women have contracted H. pylori at least once.

43. The H. pylori outbreak has been ongoing since early 2023 at a minimum.

44. PLAINTIFFS along with many other women at WNMCF have submitted numerous sick call requests and attempted to address the issue through NMCD's grievance process.

45. In addition, a large number of Notices of Claims under the Tort Claims Act (TCA) and New Mexico Civil Rights Act (NMCRA) have been sent to NMCD, NMCD General Counsel, Secretary of Corrections Alisha Tafoya Lucero, the warden, Summit, the Secretary of Corrections, NMCD Office of General Counsel, the Warden's Office, Summit and Wexford.

46. NMCD and Summit have known of the dangerous food conditions since the letter from the ACLU and have done very little to improve the situation. The situation has worsened since the ACLU letter was sent.

47. The dangerous food conditions continue unabated as a result of the lack of appropriate response by NMCD and Summit.

48. Likewise, the failure of NMCD and Summit to take appropriate measures to correct the food safety issues, many more women have contracted H. pylori since the ACLU letter and continue to contract it to the date of this complaint.

49. Numerous women have contracted H. pylori multiple times. Many continue to suffer gastrointestinal issues following medical treatment including those symptoms listed above.

50. Worse still, rather than address the problem, according to PLAINTIFFS and other women at WNMCF, NMCD has begun retaliating against the women.

A. Abuse of the Grievance Process

51. NMCD is solely responsible for the NMCD grievance process.

52. NMCD routinely ignores grievances.

53. NMCD correctional officer with no food safety or medical training or expertise in handling grievances.

54. NMCD routinely fails to properly act on grievances even when those grievances indicate dangerous threats to inmate health and safety.

55. A proper functional grievance process serves the purpose of insuring the health and safety of NMCD inmates.

56. Both N.M. Stat. Ann. § 33-2-11 and the Prison Litigation Reform Act require the exhaustion of administrative remedies which in this case means exhaustion of the NMCD grievance process.

57. Understanding that N.M. Stat. Ann. § 33-2-11 and the Prison Litigation Reform Act will block access to the Courts for failure to exhaustion of administrative remedies, NMCD has weaponized the grievance system against the inmates it was meant to serve.

58. The inmate grievance process is set forth in NMCD Policy CD 150500 and its subparts.

59. NMCD Policy CD 150500 applies to all inmate grievances including grievances related to food safety.

60. Despite the ruse of a functional grievance process embodied by NMCD Policy CD 150500, there is no functional grievance process rendering exhaustion of the grievance process virtually impossible as will be seen below.

61. NMCD facility grievance officers serve also as disciplinary officers.

62. Exercise of inmate rights and duties to exhaust the grievance process exposes inmates to retaliation at the hands of NMCD and those individuals directly responsible at the facility level for the administration of the grievance and disciplinary processes.

63. Retaliation has been reported by women at WNMCF since they began speaking Parrish Collins, counsel for PLAINTIFFS.

64. Worsening food conditions have also been reported by women at WNMCF which suggests a callous disregard for their health and safety.

65. NMCD has a duty to ensure that the food facilities are operated reasonably, safely, and competently within all NMCD correctional facilities, including WNMCF to protect the health and safety of inmates.

66. NMCD maintains authority over Summit.

67. NMCD has the authority to terminate contracts with Summit with or without cause.

68. NMCD can intercede on behalf of NMCD inmates if Summit is not providing safe food and water for NMCD inmates.

69. NMCD Defendants can intercede on behalf of an inmate to act on a grievance.

70. NMCD has a duty to intercede on behalf of the named Plaintiffs and other women at WNMCF to properly address grievances to protect inmates from harm.

71. NMCD has not interceded to protect inmates from grossly negligent, reckless and deliberately unsafe food and food facilities.

72. Rather, NMCD has conspired with Summit to maintain the status quo of dangerously unfit food and food facilities.

73. NMCD's deliberately dysfunctional and broken grievance system is the conspiratorial means by which NMCD denies inmates protection of their health and safety, specifically allowing the ongoing H. pylori crisis to go on for two years now.

74. NMCD's grievance system is used not for the protection of inmate's health and safety but as a weapon to protect inmates from unsafe food while attempting to deny inmates access to the courts for consequent harm.

75. NMCD prohibits direct filing of grievances by attorneys and takes the position that any such grievances filed by attorneys are invalid.

76. This is a violation of the due process rights of inmates.

77. The violation is particularly egregious because grievances are frequently "mishandled", "misplaced", "lost....

78. Prior to Parrish Collins beginning to file suits against NMCD and its contractors beginning in early 2018, all informal complaints, formal grievances and appeals (grievances) were in triplicate copies with one copy to the inmate.

79. That changed soon after Parrish Collins began filing suits, grievances were no longer provided in triplicate, inmates were not given copies, inmates had to pay for copies and inmates were denied copies even when willing to pay.

80. This is all by design as can be seen in the common defenses asserted by NMCD and its contractors that plaintiff inmates failed to exhaust administrative remedies.

B. Disregard of Notices of Claims

81. NMCDs handling of Notices of Claims under the Tort Claims Act (TCA) and New Mexico Civil Rights Act (CRA) is much the same as inmate grievances. In short, they are simply ignored even as prison conditions and inmate health grow worse.

82. Counsel for Plaintiffs has sent out 22 (twenty-two) Notices of Claims (NOC) for inmates housed at WNMCF regarding the food conditions.

83. Each has identified an inmate that has suffered at least one occurrence of *H. pylori* related to the food conditions at WNMCF.

84. NMCD has neither responded nor taken remedial action on a single one of those NOCs.

85. This failure to take action or even acknowledge a widespread and dangerous epidemic of *H. pylori* at WNMCF is callous, deliberately cruel and recklessly indifferent to the health and safety of the women at WNMCF.

86. The many problems with NOCs also reflect a pattern meant to keep inmates out of court, again as can be seen in the common defenses asserted by NMCD and its contractors that plaintiff inmates failed to exhaust administrative remedies.

87. Collins & Collins, P.C. has submitted hundreds if not thousands of Tort Claims Notices (TCN) and NOCs.

88. This is by necessity to protect the rights of inmates to access to the courts.

89. This necessity arises out of the frequent reports of inmates that they attempted to submit TCNs or NOCs, but there was no record of those NOCs being sent or received.

90. Just as with grievances, inmates are not provided copies or other documentation showing the TCNs/NOCs have been sent or received.

91. This too is a violation of the due process rights of inmates and should be remedied with injunctive relief and independent oversight and processing of TCAs, NOCs and grievances,

V. NECESSITY FOR COURT INTERVENTION

92. PLAINTIFFS and the women at WNMCF generally are suffering ongoing harm.

93. Prisons often exhibit higher rates of MRSA (Methicillin-resistant *Staphylococcus aureus*) and other infections than the general community due to factors such as overcrowding, inadequate hygiene, prevalent health conditions among inmates, variable access to healthcare, and high turnover and transfer rates. Inmates live in close proximity to each other, often in overcrowded conditions. This makes it easier for infections to spread, especially skin-to-skin infections like MRSA.

94. In prisons, the prevalence of compromised immune systems among inmates further exacerbates the risk of infectious diseases like MRSA. Factors contributing to weakened immune responses in this population include chronic stress, poor nutrition, pre-existing health conditions, and suboptimal medical care, making inmates more susceptible to infections.

95. There is a virtual epidemic of osteomyelitis in NMCD.

96. Many inmates suffer chronic disease.

97. In short, PLAINTIFFS and other women at WNMCF are great risk of the most serious outcomes of *H. pylori*.

98. NMCD and Summit have chosen not to address the problem but to attack the victims.

99. Court intervention in the form of permanent injunctive relief is necessary to protect the safety, health and lives of PLAINTIFFS and other women at WNMCF.

100. NMCD and Summit will not rectify the food conditions without court intervention with ongoing oversight and severe penalties for breach of the Court's order.

101. The NMCD grievance system is a sham meant only to block inmates access to the courts.

102. The same is true of NMCD's TCN/NOC submission process.

103. Both should be removed from the control and authority of NMCD who's interests clearly conflict with the interests of the inmates grievances and TCN/NOCs serve to protect.

COUNT I: CRUEL AND UNUSUAL PUNISHMENT UNDER N.M.
CONST. ART. II, § 13.

104. Plaintiff incorporates all paragraphs as if fully set forth herein.

105. Inmates at WNMCF suffering from severe gastrointestinal symptoms due to H. pylori infections did not receive adequate medical care, highlighting ongoing neglect in health and safety management.

106. The prison's failure to maintain sanitary conditions in the kitchen, including a non-functional dishwasher and hot water supply, alongside reported mold and rat infestations, reflects a serious disregard for required sanitary standards.

107. Providing inmates with inadequate, expired, or spoiled food, including sour milk and rotten produce, breaches acceptable nourishment standards under confinement.

108. The routine dismissal of inmate complaints about foodborne illnesses and the inadequate provision of medical evaluations and treatments indicate a systemic failure to address health concerns.

109. Denying appropriate meals to inmates with specific dietary needs, including those on medical and religious diets, ignores their health needs and rights.

110. The recurring nature of H. pylori infections among inmates suggests a continuous exposure to unsanitary conditions not adequately addressed by the prison officials.

111. Inconsistent medical care for food-related illnesses, with some inmates untreated or denied necessary evaluations, highlights a failure in providing essential health services.

112. No substantive improvements in food service conditions despite previous notices of claims, continuing the cycle of health and safety risks for inmates.

COUNT II: VIOLATION OF N.M. CONST. ART. II, § 18

113. Plaintiff incorporates all paragraphs as if fully set forth herein.

114. N.M. CONST. ART. II, §18 states:

“No person shall be deprived of life, liberty or property without due process of law; nor shall any person be denied equal protection of the laws. Equality of rights under law shall not be denied on account of the sex of any person.”

115. Systematic dismissal or non-response to grievances related to serious health complaints and food conditions, along with the lack of meaningful procedural safeguards, further obstructs inmates' rights to a fair process and to voice concerns over their treatment and conditions.

116. NMCD grievance policy procedure, on its face and its implementation violates PLAINTIFFS' due process rights under N.M. CONST. ART. II, §18.

117. NMCD grievance policy procedure, on its face and its implementation violates both substantive and procedural due process in violation of N.M. CONST. ART. II, §18.

COUNT III: VIOLATION OF EQUAL PROTECTION UNDER LAW **N.M. CONST. ART. II, § 4**

118. Plaintiff incorporates all paragraphs as if fully set forth herein.

119. N.M. Const. art. II, § 4 states:

All persons are born equally free, and have certain natural, inherent and inalienable rights, among which are the rights of enjoying and defending life and liberty, of acquiring, possessing and protecting property, and of seeking and obtaining safety and happiness.

120. NMCD's abuses of the grievance system and TCN/NOC submission and documentation processes and procedures deprive NMCD inmates of equal protection under law.

VI. PRAYER FOR RELIEF

A. Declaratory Judgment

121. That Declaratory Judgment be entered under NMSA 1978 § 44-6-1 et seq., declaring the NMCD grievance process unconstitutional as drafted.

122. That Declaratory Judgment be entered under NMSA 1978 § 44-6-1 et seq., declaring the NMCD grievance process unconstitutional as written and implemented.

123. That Declaratory Judgment be entered under NMSA 1978 § 44-6-1 et seq., declaring the NMCD's TCA/NOC policies and processes unconstitutional as written and implemented.

124. That Declaratory Judgment be entered under NMSA 1978 § 44-6-1 et seq., declaring the NMCD food at WNMCF unconstitutionally deficient and dangerous to the health and safety of inmates.

125. That Declaratory Judgment be entered under NMSA 1978 § 44-6-1 et seq., declaring that the medical care provided at WNMCF is unconstitutional as it pertains to the prevention, diagnosis, and treatment of H. pylori, which has resulted in multiple instances of infection and re-infection among women inmates.

126. That Declaratory Judgment be entered under NMSA 1978 § 44-6-1 et seq., declaring that the food provided by NMCD and Summit is unconstitutionally dangerous to the health and safety of inmates.

127. That Declaratory Judgment be entered under NMSA 1978 § 44-6-1 et seq., declaring that the refusal of NMCD and Summit to address Tort Claims Notices and Notices of Claims is unconstitutional.

B. Preliminary Injunctive Relief

128. That preliminary injunctive relief allowing Counsel for Plaintiffs full access to the kitchens, chow halls and any other locations within WNMCF related to food storage, preparation, and delivery, including all locations where trays, utensils, cooking pots and pans and so on are cleaned.

129. That preliminary injunctive relief allowing ordering NMCD to set up attorney client phone calls requested by WNMCF inmates within 24 hours of either the inmate's request or the attorney's request.

130. That preliminary injunctive relief be granted under NMRA, Rule 1-066, suspending any requirements that inmates exhaust administrative remedies through the NMCD grievance process pending trial on the merits under NMSA 1978 § 44-6-1 et seq. and NMRA, Rule 1-066.

131. Appoint independent inspectors with unannounced access to WNMCF for unhindered inspection of food, kitchen, dining halls, and other facilities determined by the independent inspectors to be related to food services.

132. Allow unannounced and unhindered inspections by the New Mexico Environmental Health Department.

133. Order immediate compliance with all applicable New Mexico Food Service Sanitation Act provisions, New Mexico Environmental Health regulations, Food and Drug Administration (FDA) requirements, and U.S. Department of Agriculture (USDA) standards.

C. Transparency and Oversight

134. Implement a public online dashboard, updated regularly, with compliance status reports accessible to all stakeholders.

135. Require NMCD to hire an independent ombudsperson, selected by the Court, to oversee implementation and address complaints.

D. Continuous Monitoring and Reporting

136. Establish a system for ongoing monitoring of health conditions related to H. pylori, with mandatory reporting to the court and independent medical reviewers appointed by the court.

137. Order NMCD to allow unfettered access by Counsel for Plaintiffs to potential plaintiffs and witnesses.

138. Order NMCD to produce Plaintiffs to the offices of Counsel for Plaintiffs in the event of continued interference.

139. Order that every Notice of Claim received by NMCD related to food safety, medical care, mental health care, and nutritional neglect be sent to:

- a) The independent inspectors appointed by the court
- b) New Mexico Environmental Health Department
- c) The New Mexico Attorney General's Office
- d) The Food and Drug Administration (FDA)
- e) The U.S. Department of Agriculture (USDA)
- f) The U.S. Attorney's Office

140. Require NMCD to engage with an external consulting firm to redesign the grievance process and food safety protocols.

141. Require submission of quarterly audit reports by independent inspectors.

142. Establish a permanent advisory committee to review and recommend improvements to NMCD policies and practices.

Respectfully Submitted:

COLLINS & COLLINS, P.C.

/s/ *Parrish Collins*

Parrish Collins

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505-242-5958

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Attorneys for Plaintiff

STATE OF NEW MEXICO
COUNTY OF CIBOLA

I, Alexia Nieto, being duly sworn, declare and state as follows:

At the time of the Notice of Claims sent to NMCD on my behalf on February 17, 2025
(attached hereto):

1. I was an inmate at the Western New Mexico Correctional Facility.
2. I am still an inmate at WNMCF at the time of this affidavit.
3. Food safety and sanitation at the facility were grossly neglected, with food trays often left outside, exposed to pigeon contamination.
4. Kitchen maintenance was inadequate with no hot water or functional dishwasher, which had been reported multiple times by staff.
5. I suffered from recurring health issues due to these conditions, including a recent H. pylori infection that had not been adequately addressed despite medical treatment.
6. The food conditions have not improved since the date of the NOC sent on my behalf.

I declare under penalty of perjury that the foregoing is true and correct.

Date: 03/20/2025

Signature: A. Nieto

STATE OF NEW MEXICO
COUNTY OF CIBOLA

I, Jasmine Valdez, being duly sworn, declare and state as follows:

At the time of the Notice of Claims sent to NMCD on my behalf on January 24, 2025
(attached hereto):

1. I was an inmate at the Western New Mexico Correctional Facility, inmate number 90511.
2. I am still an inmate at WNMCF at the time of this affidavit.
3. I had tested positive for H. pylori in October 2024 after experiencing symptoms including bloody diarrhea and stomach pain.
4. I had submitted multiple sick call requests and was eventually prescribed antibiotics; however, I continued to experience persistent stomach pain despite treatment.
5. I had observed unsanitary conditions in the kitchen, including trays that were not thoroughly cleaned, remained wet, and were never dried properly before food was placed on them. Pigeons often ate from these trays and left droppings on them.
6. I felt afraid to eat the food due to these unsanitary conditions.
7. The food conditions have not improved since the date of the NOC sent on my behalf.

I declare under penalty of perjury that the foregoing is true and correct.

Date: 03/19/2025

Signature: J. Valdez

STATE OF NEW MEXICO
COUNTY OF CIBOLA

Affidavit of Sandy Munoz Flores

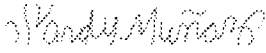
I, Sandy Munoz Flores, being duly sworn, declare and state as follows:

At the time of the Notice of Claims sent to NMCD on my behalf on February 7, 2025
(attached hereto):

1. I was an inmate at the Western New Mexico Correctional Facility, inmate number 84288.
2. I am still an inmate at WNMCF at the time of this affidavit.
3. I reported symptoms of stomach issues, bloody vomit, and diarrhea, was diagnosed with H-pylori in October 2024, and completed antibiotic treatment with continuing symptoms.
4. I observed and reported unsanitary conditions in the kitchen, including food trays left outside where pigeons defecated on them.
5. I filed grievances regarding these conditions and the inadequate response from the facility management concerning kitchen and health safety standards.
6. The food conditions have not improved since the date of the NOC sent on my behalf.

I declare under penalty of perjury that the foregoing is true and correct.

Date: 03/20/2025

Signature: 

STATE OF NEW MEXICO
COUNTY OF CIBOLA

Affidavit of Tanya Becenti

I, , being duly sworn, declare and state as follows:

At the time of the Notice of Claims sent to NMCD on my behalf on February 17, 2025
(attached hereto):

1. I was an inmate at the Western New Mexico Correctional Facility, inmate number 63875.
2. I am still an inmate at WNMCF at the time of this affidavit.
3. I had repeatedly been infected with *Helicobacter pylori* due to negligent sanitation in the facility's dining and kitchen areas.
4. The conditions included exposure to mold, feces, and poor food handling practices.
5. I demanded immediate medical treatment and comprehensive reform of the food service areas.
6. The food conditions have not improved since the date of the NOC sent on my behalf.

I declare under penalty of perjury that the foregoing is true and correct.

Date: 03/19/2025

Signature: Tanya Becenti

STATE OF NEW MEXICO
COUNTY OF CIBOLA

I, Vanessa Moya, being duly sworn, declare and state as follows:

At the time of the Notice of Claims sent to NMCD on my behalf on February 17, 2025
(attached hereto):

1. I was an inmate at the Western New Mexico Correctional Facility.
2. I am still an inmate at WNMCF at the time of this affidavit.
3. Meals were often delayed and spoiled due to being prepared off-site, contributing to persistent health issues including stomach pain.
4. My complaints and requests for medical attention had been repeatedly ignored, worsening my condition and leaving me in severe pain.
5. The food conditions have not improved since the date of the NOC sent on my behalf.

I declare under penalty of perjury that the foregoing is true and correct.

Date: 03/19/2025

Signature: Vanessa Moya