

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

S.M.

Plaintiff,

v.

No. _____

**NEW MEXICO CORRECTIONS DEPARTMENT;
CENTURION CORRECTIONAL HEALTH
CARE OF NEW MEXICO, LLC; SECRETARY
OF CORRECTIONS ALISHA TAFOYA LUCERO;
FORMER WARDEN MARIANNA VIGIL; and
JOHN/JANE DOE,**

Defendants.

**PLAINTIFF’S MOTION FOR PRELIMINARY INJUNCTION AND MEMORANDUM
OF LAW IN SUPPORT**

COMES NOW Plaintiff S.M., by and through her undersigned counsel, the American Civil Liberties Union of New Mexico, and pursuant to Rule 1-066 NMRA, respectfully requests that this Court issue a preliminary injunction enjoining Defendants from continuing to deprive her of necessary medical care in violation of her rights under Article II, Section 13 of the New Mexico Constitution and enjoining Defendant Centurion Correctional Health Care of New Mexico, LLC (“Centurion”) from engaging in medical negligence by refusing to provide her with treatment in accordance with the standard of care. In support of this Motion, Plaintiff states the following.

INTRODUCTION

This lawsuit should not be necessary. S.M. is not asking for anything extraordinary, controversial, or difficult to provide. Rather, she has made a simple request of Defendants: that

they provide her access to a medical specialist who can properly diagnose and treat her serious medical condition in accordance with the standard of care.

For over a year, S.M. has been complaining of painful and humiliating symptoms. For over a year, Defendants have or should have recognized the need for her to be seen by a qualified specialist, but have failed or refused to make the required referral. Now, even after S.M. has sought legal assistance in bringing this to Defendants' attention, they persist in denying her necessary medical care. In doing so, Defendants are subjecting S.M. to cruel and unusual punishment in violation of Article II, Section 13 of the New Mexico Constitution. Defendants have given S.M. no other option but to come before this Court to seek an Order enjoining Defendants from continuing to violate her constitutional rights.

FACTS

I. Pelvic Organ Prolapse

Pelvic organ prolapse is a pelvic floor disorder resulting in the loss of support of one or more compartments of the vagina.¹ Symptoms of pelvic organ prolapse include feeling of pelvic pressure, organs bulging out of the vagina, urinary incontinence, difficulty emptying the bladder, constipation, lower back pain, and problems inserting tampons or applicators.² The condition is diagnosed and the severity is determined through physical examination by a medical provider who has specialized experience in evaluating pelvic floor disorders, most commonly a doctor who is board-certified in obstetrics and gynecology (an "OB/GYN").³ Appropriate treatment for pelvic organ prolapse includes non-surgical options such as the use of a vaginal pessary to

¹ American Urogynecologic Society, *American Urogynecologic Society Best Practice Statement: Evaluation and Counseling of Patients with Pelvic Organ Prolapse*, 23 *Journal of Female Pelvic Medicine and Reconstructive Surgery* 281 (Sept./Oct. 2017).

² The American College of Obstetricians and Gynecologists, *Frequently Asked Questions: Pelvic Support Problems*, ACOG.org (Oct. 2017), <https://www.acog.org/-/media/For-Patients/faq012.pdf?dmc=1&ts=20190826T1842096798>.

³ See Barnes Affidavit [Plaintiff's Exhibit 1] ¶ 3.

reduce prolapse and treat symptoms or pelvic floor rehabilitation under the care of a physical therapist.⁴ Surgical repair is often necessary for cases of severe prolapse or if use of a pessary has not been effective.⁵ Pelvic organ prolapse is likely to worsen if left untreated for a significant period of time.⁶

II. Abnormal Uterine Bleeding and Endometrial Polyps

Uterine bleeding that deviates from the normal menstrual cycle, such as painful menses, irregular periods, and heavy bleeding, is considered abnormal and necessitates evaluation by a qualified medical professional.⁷ The evaluation of women with abnormal uterine bleeding includes a thorough medical history and physical examination, appropriate laboratory and imaging tests, and consideration of age-related factors.⁸ Abnormal uterine bleeding may indicate the presence of endometrial polyps, particularly for women between the ages of 19 and 39 years old.⁹ Endometrial polyps are growths that develop from the membrane tissue of the uterus and extend into the uterine cavity.¹⁰ Endometrial polyps can be a precursor for uterine cancer.¹¹ Abnormal uterine bleeding can also be an indicator of existing uterine cancer.¹²

III. S.M.

S.M. is incarcerated at the Springer Correctional Facility (“SCF”) in Springer, New Mexico and has been in the custody of the New Mexico Corrections Department (“NMCD”)

⁴ See *id.* ¶ 5.

⁵ *Id.*

⁶ See American Urogynecologic Society, *Best Practice Statement*, *supra*, at 284-85.

⁷ See The American College of Obstetricians and Gynecologists, *Practice Bulletin No. 128: Diagnosis of Abnormal Uterine Bleeding in Reproductive-Aged Women*, ACOG.org (July 2012, reaffirmed 2016); Barnes Affidavit ¶ 6.

⁸ *Id.*

⁹ The American College of Obstetricians and Gynecologists, *Practice Bulletin No. 128*, *supra*.

¹⁰ The American College of Obstetricians and Gynecologists, *Frequently Asked Questions: Abnormal Uterine Bleeding*, ACOG.org (Mar. 2017), <https://www.acog.org/-/media/For-Patients/faq095.pdf?dmc=1&ts=20190826T1923593566>.

¹¹ See The American College of Obstetricians and Gynecologists, *Practice Bulletin No. 128*, *supra*.

¹² See *id.*

since May 2018. From at least June 2018, S.M. has been complaining of symptoms consistent with pelvic organ prolapse. S.M.'s symptoms include pelvic pressure and pain, pain when sitting, constipation, difficulty emptying her bladder, urinary incontinence, pain in her lower back and pelvis when she stands for more than a short period of time, and bloating. These painful symptoms have also prevented S.M. from exercising and doing the cardio workouts that she used to enjoy. Finally, in addition to being physically painful, S.M.'s condition has become a source of embarrassment and humiliation. For example, at the age of 37 years old, S.M. has urinary incontinence that forces her wear a sanitary napkin at all times and causes her to constantly smell of urine.

Beginning in June 2018, S.M. submitted numerous grievances through the prison grievance system regarding her symptoms, to no avail. On April 22, 2019, S.M. sent a letter to Defendant Vigil explaining her symptoms and requesting that she be seen by a medical professional appropriately qualified to diagnose and treat her.¹³ On May 2, 2019, S.M. was seen by Marcia Hefker, the Nurse Practitioner employed by Centurion at SCF. Apparently prompted by the April 22 letter, and after almost a year of complaints from S.M., Ms. Hefker performed a pelvic exam. At the May 2 appointment, Ms. Hefker told S.M. that she had cystocele, which describes a type of pelvic organ prolapse.¹⁴

At the May 2 appointment, Ms. Hefker referred S.M. to the hospital in Raton, New Mexico for an ultrasound. Ms. Hefker wrote "cystocele" as the clinical indication for the ultrasound, which was performed on May 28, 2019. She informed S.M. that the ultrasound was

¹³ Many of the communications referenced herein occurred between attorneys for S.M. and attorneys for NMCD, respectively.

¹⁴ OB/GYNs, in accordance with the standard, validated system of evaluating pelvic organ prolapse, generally do not use the terms "cystocele" or "rectocele." *See* The American College of Obstetricians and Gynecologists, *Practice Bulletin No.185: Pelvic Organ Prolapse*, ACOG.org (Nov. 2017).

intended to assess the severity of her condition. However, while the ultrasound may have ruled out other possible causes of S.M.'s symptoms, it did not provide any information regarding the severity of S.M.'s pelvic organ prolapse or insight into treatment options. *See* Barnes Affidavit ¶ 4. Ultrasounds are simply not the appropriate diagnostic tool for pelvic organ prolapse. *See* Barnes Affidavit ¶ 4; Cohen Affidavit [Plaintiff's Exhibit 2] ¶ 3.

As a Registered Nurse and Certified Nurse Practitioner Specializing in family medicine,¹⁵ Ms. Hefker does not have the qualifications or training required to appropriately diagnose the severity of or treat pelvic organ prolapse. Diagnosis and treatment of the condition requires evaluation by a medical professional with specialized training and experience in evaluating pelvic floor disorders, such as a doctor certified in obstetrics and gynecology (an "OB/GYN") or a urogynecologist. *See* Barnes Affidavit ¶ 3.

Therefore, on July 16, 2019, S.M. wrote to Defendants to again request that she be seen by an OB/GYN. The July 16 communication included an affidavit from Emily Cohen, M.D., who had reviewed S.M.'s medical records, including the ultrasound report from the Raton hospital. *See* Cohen Affidavit ¶ 2. The affidavit outlined Dr. Cohen's professional opinion that S.M. needs to be evaluated by an OB/GYN to properly diagnose the severity of her presumed pelvic organ prolapse and determine the appropriate course of treatment. *Id.* ¶ 2. Dr. Cohen also explained in her affidavit that the ultrasound report generated by the hospital in Raton did not provide any of the information necessary to develop a treatment plan for S.M. *Id.* ¶ 3. Dr. Cohen's opinions are also supported by Dr. Lauren Barnes, a board-certified OB/GYN and Female Pelvic Medicine and Reconstructive Surgery Fellow at the University of New Mexico Hospital. *See generally* Barnes Affidavit.

¹⁵ *See* The New Mexico Board of Nursing licensure information for Marcia Hefker.

S.M. followed up with Defendants several times after the July 16 communication, but received no substantive response regarding her care. On August 14, 2019, S.M. did receive a communication from Defendants with an incomplete and insufficient timeline of her medical appointments since the April 22 letter. The timeline in Defendants' communication indicated that they had taken no additional action to address S.M.'s condition beyond the May 28 ultrasound.

In addition to symptoms consistent with pelvic organ prolapse, S.M. has for years complained of abnormal uterine bleeding. Although the ultrasound performed in Raton on May 28 was inapposite with respect to pelvic organ prolapse, it did show heterogeneous endometrial lining that could indicate the existence of endometrial polyps. The ultrasound report noted that a biopsy might be warranted, if indicated by other elements of the patient assessment. A biopsy to assess for possible malignancy is warranted in S.M.'s case because of her body mass index and long history of irregular menses, combined with the abnormal ultrasound. Barnes Affidavit ¶ 6. An OB/GYN is the only medical professional qualified to evaluate and treat S.M. for endometrial polyps. *Id.*

As of the date of this filing, S.M. is still living with painful symptoms that are not being addressed by Defendants. By refusing to take S.M. to an OB/GYN, Defendants force her to continue suffering with pelvic organ prolapse and put her at risk of developing or worsening uterine cancer.

ARGUMENT

This Court should issue a preliminary injunction enjoining Defendants from continuing to deny S.M. access to a medical professional qualified to address and treat her serious medical need. To obtain a preliminary injunction, a plaintiff must show that "(1) the plaintiff will suffer irreparable injury unless the injunction is granted; (2) the threatened injury outweighs any

damage the injunction might cause the defendant[s]; (3) issuance of the injunction will not be adverse to the public's interest; and (4) there is a substantial likelihood plaintiff will prevail on the merits." *Labaldo v. Hymes*, 1993-NMCA-010, ¶ 11, 115 N.M. 314 (citing *Tri-State v. Shoshone River Power, Inc.*, 805 F.2d 351 (10th Cir. 1986)). S.M. satisfies all four factors for granting a preliminary injunction in this case.

I. S.M. Will Suffer Irreparable Harm Unless the Injunction is Granted.

S.M. will suffer irreparable harm unless she is seen by a qualified medical specialist who can diagnose the extent of her serious medical conditions and develop a plan for her treatment. Absent injunctive relief, Defendants will force S.M. to continue living in pain, discomfort, and humiliation due to pelvic organ prolapse, a treatable medical condition. If left unaddressed even longer, this condition likely will continue worsen. Additionally, if S.M.'s abnormal uterine bleeding and possible endometrial polyps are not evaluated by an OB/GYN, S.M. risks uterine cancer and serious, permanent injury to her reproductive system. Finally, the ongoing violation of S.M.'s constitutional rights in and of itself constitutes an irreparable injury. *See Pinson v. Pacheco*, 397 Fed. Appx. 488, 491 (10th Cir. 2010) (when the injury involved is a violation of the plaintiff's constitutional rights, "no further showing of irreparable injury is necessary").¹⁶

No sum of money or equitable relief could compensate S.M. for these harms.

II. Plaintiff Has a Substantial Likelihood of Prevailing on the Merits Because Defendants Have Refused to Provide Adequate Evaluation and Treatment of Her Serious Medical Needs.

"A prison that deprives prisoners of basic sustenance, including adequate medical care, is incompatible with the concept of human dignity and has no place in civilized society." *Brown v.*

¹⁶ Rule 1-066 is modeled after Federal Rule of Procedure 65, which governs temporary restraining orders and preliminary injunctions, *Cook v. Klopfer*, 1974-NMSC-023, ¶ 5, 86 N.M. 111, and New Mexico courts have adopted federal interpretations of the rule. *See LaBalbo v. Hymes*, 1993-NMCA-010, ¶ 11, 115 N.M. 314.

Plata, 563 U.S. 493, 511 (2011). S.M. is likely to prevail on the merits of her claim that Defendants' refusal to provide her access to a medical specialist qualified to diagnose and treat her serious medical conditions constitutes cruel and unusual punishment in violation of Article II, Section 13 of the New Mexico Constitution. S.M. is also likely to prevail on the merits of her claim that the same refusal to provide her access to medical care constitutes medical negligence on the part of Centurion.

A. Plaintiff Has a Substantial Likelihood of Prevailing on the Merits of Her Claim Under Article II, Section 13 of the New Mexico Constitution Because Defendants Have Refused to Refer Her to the Appropriate Medical Specialist.

S.M.'s rights under Article II, Section 13 of the New Mexico Constitution parallel her rights under the Eighth Amendment to the United States Constitution. *See Bevan v. Santa Fe County*, 2017 WL 4119615, at *9 (D.N.M. Sept. 15, 2017) (“[T]he analysis of [plaintiffs’] rights under the New Mexico Constitution does not differ from the analysis under the Eighth and Fourteenth Amendments.”); *see also State v. Dwyer*, 2013 WL 1187656, at *3 (N.M. Mar. 21, 2013). Under the Eighth Amendment prison officials have an affirmative obligation to provide prisoners with necessary medical care. *Farmer v. Brennan*, 511 U.S. 825, 832 (1994); *Helling v. McKinney*, 509 U.S. 25, 31-32 (1993); *Estelle v. Gamble*, 429 U.S. 97, 104 (1976). Corrections officials inflict cruel and unusual punishment on a prisoner, in violation of the Eighth Amendment and Article II, Section 13 of the New Mexico Constitution, when they are deliberately indifferent to a prisoner’s serious medical needs. *Estelle*, 429 U.S. at 104.

To establish deliberate indifference, a prisoner must show (1) that her medical need was objectively sufficiently serious, and (2) that, subjectively, officials acted with a sufficiently culpable state of mind in failing to treat that need. *Sealock v. Colorado*, 218 F.3d 1205, 1209 (10th Cir. 2000) (*citing Farmer v. Brennan*, 511 U.S. 825 (1994)). S.M. suffers from objectively

serious medical conditions that Defendants, acting with deliberate indifference, have failed to treat in violation of Article II, Section 13 of the New Mexico Constitution.

i. S.M.'s Pelvic Organ Prolapse and Abnormal Uterine Bleeding Constitute Serious Medicals Need Under Article II, Section 13 of the New Mexico Constitution.

To meet the objective requirement of the deliberate indifference standard, a prisoner must demonstrate the existence of a serious medical need. *See Estelle*, 429 U.S. at 104; *Farmer*, 511 U.S. at 834-835. A serious medical need is “one that has been diagnosed by a physician as mandating treatment or one that is so obvious that even a lay person” would recognize the need for medical attention. *Ramos v. Lamm*, 639 F.2d 559, 575 (10th Cir. 1980). Additionally, a medical condition is sufficiently serious if it “significantly affects an individual’s daily activities” or causes “chronic and substantial pain.” *McGuckin v. Smith*, 974 F.2d 1050, 1060 (9th Cir. 1992) (*cited by Riddle v. Mondragon*, 83 F.3d 1197, 1202 (10th Cir. 1996)).

S.M.’s pelvic organ prolapse qualifies as an objectively serious medical need. She is experiencing pain and discomfort that significantly interfere with her daily activities. It would be obvious to any layperson that S.M.’s symptoms require the attention of a medical provider. Most importantly, the highly-qualified specialist who reviewed S.M.’s records and account of her symptoms determined that S.M. has a serious medical condition which requires the attention of an OB/GYN.

Similarly, S.M.’s abnormal uterine bleeding constitutes a serious medical need. Her history of abnormal bleeding, when coupled with her body mass index and heterogeneous endometrium (as seen on her May 2019 ultrasound report), constitutes a serious medical need because it indicates the possibility of malignant polyps in her uterus. Uterine cancer is a serious medical need that may worsen, causing lasting, permanent harm to S.M.

ii. *Defendants Have Acted with Deliberate Indifference by Refusing to Provide S.M. Access to a Qualified Specialist to Diagnose and Treat Her Medical Conditions.*

Defendants have demonstrated blatant, deliberate indifference in refusing to refer S.M. to the appropriate medical professional for diagnosis and treatment of her serious medical need.

Where a condition requires specialized treatment or referral to a specialist for evaluation, failure to provide such treatment or referral constitutes deliberate indifference. “Deliberate indifference to serious medical needs is shown when prison officials have prevented an inmate from receiving recommended treatment or when an inmate is *denied access to medical personnel capable of evaluating the need for treatment.*” *Ramos*, 639 F.2d at 575 (emphasis added). “‘Adequate medical care’ requires treatment by qualified medical personnel who provide services that are of a quality acceptable when measured by prudent professional standards in the community[.]” *Barrett v. Coplan*, 292 F. Supp. 2d 281, 285 (D.N.H. 2003). This includes making referrals to specialists where appropriate.

Although Defendants have been aware of S.M.’s serious symptoms for over a year, they have not taken appropriate steps to get her the treatment that she needs. Based on the medical opinions of three different medical professionals, including Marcia Hefker herself, S.M. is suffering from pelvic organ prolapse. The recommended treatment for this condition varies, depending on the individual needs of the patient. Adequate care for pelvic organ prolapse includes assessment by a specialist qualified to diagnose severity of the patient’s condition and to recommend the best treatment options for that particular patient. Likewise, identification and treatment of endometrial polyps requires the expertise of an OB/GYN. Defendants do not employ any individual qualified to diagnose and treat pelvic organ prolapse or endometrial polyps.

Since S.M.'s attorneys intervened on her behalf in April, Defendants have taken some cursory steps to address her condition. However, the relevant inquiry under the deliberate indifference standard is not whether any medical care has been provided but whether constitutionally adequate care has been provided. *Estelle*, 429 U.S. at 103-06 (prison officials may not adopt an "easier and less efficacious treatment" that does not adequately address a prisoner's serious medical needs); *Ramos*, 639 F.2d at 574 (the constitution "requires that the State 'make available to inmates a level of medical care which is reasonably designed to meet the routine and emergency health care needs of inmates'"); *Edwards v. Syder*, 478 F.3d 827, 831 (7th Cir. 2007) (treatment cannot be "blatantly inappropriate"). It is well-established that, while prisoners may not be entitled to any particular treatment of their choosing, medical care in prison cannot be "so cursory as to amount to no treatment at all." *Ancata v. Prison Health Servs., Inc.*, 769 F.2d 700, 704 (11th Cir. 1985). *See also Langford v. Norris*, 614 F.3d 445, 460 (8th Cir. 2010) ("a total deprivation of care is not a necessary condition for finding a constitutional violation"); *Jones v. Muskegon Cnty.*, 625 F.3d 935, 944 (6th Cir. 2010) (prison officials may not avoid liability "simply by providing some measure of treatment").

The few steps that Defendants have taken to address S.M.'s medical condition have been cursory, blatantly inappropriate, and entirely ineffective. Rather than employing informed medical judgment regarding the treatment of her pelvic organ prolapse, Defendants instead sent S.M. to undergo a medical test that was irrelevant to the condition. Defendants then used the results of that ultrasound to suggest that no treatment was needed or warranted for S.M.'s condition. Defendants have also failed to appropriately address S.M.'s abnormal bleeding, even after the ultrasound that they ordered illuminated a likely cause – endometrial polyps.

Finally, Defendants have demonstrated deliberate indifference to S.M.'s serious medical need by delaying assessment of her condition and symptoms, including her abnormal uterine bleeding. Delay in providing medical care constitutes deliberate indifference where the delay results in substantial harm. *Oxendine v. Kaplan*, 241 F.3d 1272, 1276 (10th Cir. 2001). Substantial harm is demonstrated "where the delay causes unnecessarily prolonged pain and suffering." See *Motto v. Corr. Med. Services*, 2010 WL 4781123, at *4 (S.D.W. Va. Nov. 16, 2010) (citing *Sealock v. Colorado*, 218 F.3d 1205, 1210 n. 5 (10th Cir.2000)). Additionally, delay of medical care is unconstitutional in "instances in which it is apparent that delay would exacerbate the prisoner's medical problems." *Hunt v. Uphoff*, 199 F.3d 1220, 1224 (10th Cir. 1999) (quoting *Grant v. Bernalillo County Detention Ctr.*, 173 F.3d 863, 1999 WL 157415 at *2 (10th Cir.1999)). Importantly, "[d]elay in referring an inmate to a specialist may constitute [deliberate indifference] when that referral is medically necessary." *Ginest v. Bd. of County Com'rs of Carbon County*, 333 F. Supp. 2d 1190, 1199 (D. Wyo. 2004) (citing *Oxendine*, 241 F.3d at 1276).

Defendants have been aware of S.M.'s symptoms, including abnormal uterine bleeding and symptoms consistent with pelvic organ prolapse, since she arrived at SCF in May 2018. Additionally, it appears that Ms. Hefker recognized the probable diagnosis associated with S.M.'s symptoms since at least September 2018, when she noted "anterior cystocele" in S.M.'s chart. The fact that it has taken Defendants over a year and persistent prompting by S.M.'s attorneys to even begin addressing her medical needs in and of itself constitutes deliberate indifference, in violation of Article II, Section 13 of the New Mexico Constitution.

By refusing to provide S.M. with access to a qualified specialist and treatment in accordance with the medical judgment of that professional, Defendants engage in exactly the

type of “unnecessary and wanton infliction of pain” prohibited by the New Mexico Constitution. *See Estelle*, 429 U.S. at 103.

B. Plaintiff Has a Substantial Likelihood of Prevailing on the Merits of Her Claim Against Defendant Centurion for Medical Negligence Because It Has Blatantly Refused to Refer Her to a Specialist Appropriately Qualified to Treat Her in Accordance with the Standard of Care.

S.M. is likely to succeed on the merits of her claim that refusing to refer her for evaluation by an OB/GYN is a breach of Centurion’s duty to provide her with appropriate medical care. Centurion has a legal duty to possess and apply the knowledge of a reasonably well-qualified health care provider practicing under similar circumstances. UJI 13-1101 NMRA. Further, Centurion has a duty to use the skill and care ordinarily used by a reasonably well-qualified health care provider practicing under similar circumstances, with due consideration given to locality. *Id.* In other words, Centurion has a duty to provide the standard of care to its patients.

In any field of medicine, when a medical professional is confronted with a patient whom she is not qualified to diagnose or treat, it is the standard of care to refer that patient to the appropriate specialist. It is irresponsible and medically negligent to force a patient to live in pain because the facility in which she is imprisoned does not employ a physician qualified to provide the treatment that she needs. Centurion’s refusal to refer S.M. to the appropriate medical specialist, in this case an OB/GYN, violates its duty to treat her in accordance with the accepted medical standard of care.

S.M. is not asking for anything extraordinary, unusual, or difficult to provide. She is asking Centurion to do the job it was hired, with taxpayer money, to do: provide her access to the basic medical care that she needs.

III. The Balance of Harms Strongly Favors Granting Immediate Injunctive Relief.

The irreparable, and potentially permanent, harm suffered by S.M. absent relief greatly outweighs any potential budgetary or administrative harm claimed by Defendants. Until she is seen by a qualified medical specialist, S.M. will continue to experience painful and increasingly debilitating symptoms related to her pelvic organ prolapse. Given her abnormal bleeding and ultrasound, S.M. also remains at risk for developing uterine cancer. By contrast, granting relief would impose no measurable harm on Defendants, aside from the cost of transporting her to the appropriate medical appointments. Defendants may not deny S.M. her constitutional rights based on budgetary restrictions. *See Edmisten v. Werholtz*, 287 F. App'x. 728, 734 (10th Cir. 2008) (irreparable harm to an inmate caused by a denial of medically necessary care outweighs the potential financial burden on a prison for providing that care); *City of Revere v. Mass. Gen. Hosp.*, 463 U.S. 239, 245 (1983).

Nor would Defendants suffer any cognizable administrative harm from the requested relief. Transporting prisoners for necessary medical care is a routine part of running a prison. Ensuring that prisoners get appropriate medical care is the job that the State of New Mexico hired Centurion to do. Accordingly, S.M.'s interest in treatment and relief from pain outweighs any proffered penological interest.

IV. The Public Interest Favors Immediate Injunctive Relief.

The public interest favors S.M.'s requested injunctive relief. "It is always in the public interest to prevent the violation of a party's constitutional rights." *Verlo v. Martinez*, 820 F.3d 1113, 1127 (10th Cir. 2016) (internal quotation marks and citation omitted). *See also Planned Parenthood of Arkansas & E. Oklahoma v. Cline*, 910 F. Supp. 2d 1300, 1308 (W.D. Okla. 2012) ("The public has an interest in constitutional rights being upheld and in unconstitutional decisions by the government being remedied."); *Kotz v. Lappin*, 515 F. Supp. 2d 143, 152

(D.D.C. 2007) (“The public certainly has an interest in the judiciary intervening when prisoners raise allegations of constitutional violations.” (*citing Rhodes v. Chapman*, 452 U.S. 337, 362 (1981)). The interests of the residents of the state of New Mexico can only be served by stopping unconstitutional denials of medical care to individuals in the custody of the New Mexico Corrections Department.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff S.M. respectfully requests that this Court enter an Order granting a preliminary injunction enjoining Defendants from withholding necessarily medical care from S.M., requiring Defendants to provide her with access to an OB/GYN, and requiring Defendants to follow through with the treatment plan developed by said specialist.

Respectfully submitted,

/s/Lalita Moskowitz

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