UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

G.H., *et al*.,

Plaintiffs,

Case No.: 4:19-cv-431-MW/MJF

v.

SIMONE MARSTILLER, *et al*.,

Defendants.

PLAINTIFFS' MEMORANDUM IN OPPOSITION TO DEFENDANTS' MOTION TO DISMISS PLAINTIFFS' CLASS ACTION COMPLAINT, AND ALTERNATIVELY, MOTION FOR MORE DEFINITE STATEMENT (ECF 13)

I. Introduction

Plaintiffs G.H., R.L., and B.W. have filed a putative class action challenge to statewide policy and practice of Defendants Department of Juvenile Justice (DJJ) and DJJ Secretary Simone Marstiller (Defendants) of repeatedly isolating children for days at a time, with no time limit, in locked cells without meaningful social

to their psychological and physical health and safety in violation of the Eighth and Fourteenth Amendments to the United States Constitution. *Id.* ¶¶ 47-51, 53-61, 62-77. Plaintiffs, G.H., R.L., and B.W., who have psychiatric disabilities, learning disabilities, and are at risk for suicide, report that solitary confinement made them anxious, afraid, depressed, suicidal, traumatized, panicked, distrustful, and caused them to self-harm. *Id*. ¶¶ 14-20, 23, 25-27, 30, 32-36, 58-61. These are well-known risks from solitary confinement. *Id.* ¶¶ 73-77. Plaintiffs also allege that this same policy and practice discriminates against children with disabilities. *Id*. ¶¶ 96-101.

In their Motion to Dismiss Plaintiffs' Clas-0.004 T12(ve)re

II. Standard of Review

"To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim for relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quotation omitted). Facial plausibility is found when a plaintiff "pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *See id.*; *see also Redland Corp., Inc. v. Bank of Amer. Corp.*, 568 F.3d 1232, 1234 (11th Cir. 2009) (factual allegations in the Complaint must be construed in the light most favorable to plaintiff). While "[s]pecific facts are not necessary[,]" the complaint should "give the defendant fair notice of what the ... claim is and the grounds upon which it rests." *Erickson v. Pardus*, 551 U.S. 89, 93 (2007) (per curiam) (internal quotation omitted).

III. Plaintiffs Have Sufficiently Alleged That Defendants Are Liable Under 42 U.S.C. Section 1983

Defendants assert that Plaintiffs have not identified any DJJ policy which causes the unconstitutional conditions and, therefore,

fixed plans of action to be followed under similar circumstances consistently and over time." *Pembaur v. City of Cincinnati*, 475 U.S. 469, 480-81 (1986). A policy can also be an unwritten practice that is so widespread, permanent and well-settled to constitute a custom with the force of law. *See City of St. Louis v. Praprotnik*, 485 U.S. 112,127 (1988); *see also Horn v. Jones*, 2015 WL 3607012, at *8 (S.D. Fla. May 8, 2015) ("An action does not need to be official in nature in order to constitute a ... policy or custom.") (citation omitted).

Here, Plaintiffs allege that DJJ has and enforces a policy or practice (i.e., unwritten policy) that causes unconstitutional conduct and that an official policymaker is responsible for it. This is sufficient to demonstrate liability under 42 U.S.C. § 1983. *See Grech v. Clayton Cnty*, 335 F.3d 1326, 1330

of time. *Id.* ¶ 48-49. Defendants' practice regularly exceeds the 72-hour time limit stated in their written Facility Operating Procedures. *Id.* ¶¶ 48, 51. Further, DJJ's policy and practice is to subject children with mental illness to solitary confinement, including those who have engaged in self-harming behaviors, or who are at risk for suicide, despite their heightened risk for serious harm. ECF 2 ¶¶ 5, 61. DJJ's policy and practice fails to provide a mental health examination prior to solitary confinement, or meaningful mental health treatment during confinement, to prevent the onset or exacerbation of mental illness and the risk of suicide. ECF 2 ¶¶ 5, 61. Plaintiffs allege that the official policymaker, Defendant Marstiller, is responsible for establishing, adopting, and utilizing this policy and practice which is the "moving force" behind the constitutional violations.

F.2d 1370, 1380 (11th Cir.1982); *Gaines*, 2019 WL 1400470, at *12. In her official capacity as the DJJ Secretary, Defendant Marstiller is liable because she authorizes, approves, oversees, and enforces the solitary confinement policy and practice alleged here as the basis for the constitutional violations in this action. *See*, *e.g*., *Matthews v. Crosby*, 480 F.3d 1265, 1275 (11th Cir. 2007); *Gaines v. Jones*, 2019 WL 1400470, at *12 (M.D. Fla. March 28, 2019); *Horn*, 2015 WL 3607012, at *8 (S.D. Fla. May 8, 2015) (citation omitted); ECF 2 ¶¶ 39, 91. Defendants' argument that Defendant Marstiller has only had these responsibilities since January 2019 is without merit. *See Hall*, 2017 WL 4764345, at *10 (finding Department of Corrections Secretary liable under §1983 where policy is implemented with deliberate indifference to its known or obvious consequences). She is sued in her official capacity and is therefore responsible for the conduct of her predecessors. For these reasons, the cases relied on by Defendants fail to support the dismissal of Defendant Marstiller.[4] Defendant Marstiller is also a necessary party under Fed. R. Civ. P. 19(a)(1)(A) to provide the injunctive relief requested by Plaintiffs. ECF 2 ¶ 39.

1983 liability. *See Allstate Ins. Co. v. James*, 779 F.2d 1536, 1540-41 (11th Cir. 1985); *see also Hall v. Palmer*, 2017 WL 4764345, at *9-10 (M.D. Fla. Oct. 20, 2017).

[4] Defendants rely on cases holding there is no *respondeat superior* liability under Section 1983, but do not directly address the liability of prison officials who, as here, are charged with enacting, authorizing, and using a policy which results in deliberate indifference to constitutional rights. ECF 13 at 7-8, 17-19. *Parker v. Williams*, 862 F.2d 1471, 1476 n.4 (11th Cir. 1989), was overruled, and does not apply. ECF 13 at 7.

sufficiently serious" that it is causing a substantial risk of serious harm, and (2) acting with a "sufficiently culpable state of mind" by demonstrating deliberate indifference to Plaintiffs' health or safety. *See Farmer v. Brennan*, 511 U.S. 825, 834 (1994) (internal quotation omitted); *see also Thomas v. Bryant*, 614 F.3d 1288, 1303 (11th Cir. 2010).

The objective risk of harm inquiry is contextual and "draws its meaning from the evolving standards of decency that mark the progress of a maturing society." *Thomas*, 614 F.3d at 1304 (quoting *Hudson v. McMillan*, 503 U.S. 1, 8 (1992)). There is "no static test" for determining whether Plaintiffs are suffering from an objective deprivation of sufficient seriousness. *Chandler v. Baird*, 926 F.2d 1057, 1064 (11th Cir. 1991) (internal quotation marks omitted). When conditions of confinement "have a mutually enforcing effect that produces the deprivation of a single, identifiable human need," they may establish an Eighth Amendment violation "in combination" when each would not do so alone. *Wilson v. Seiter*, 501 U.S. 294, 304-05 (1991).

The Supreme Court and Eleventh Circuit have held that harm is "serious" in an Eighth Amendment claim where it poses a "substantial risk of serious harm." *Farmer*, 511 U.S. at 834; *Thomas*, 614 F.3d at 1303. While Defendants argue that only a deprivation of basic human needs that results in an "actual, serious harm that is equivalent to an extreme deprivation" is adequate, that is not the legal

standard. ECF 13 at 12. Rather, it is sufficient to show that Plaintiffs are exposed to conditions that "pose an unreasonable *risk* of serious damage to [their] future health." *Helling v. McKinney*, 509 U.S. 25, 35 (1993) (emphasis added).

Defendants are also incorrect that there is no legal distinction made between children and adults for purposes of Eighth Amendment analysis. ECF 13 at 21-22. The case law is clear that children's unique needs, vulnerabilities and continuing development entitle them to different protections under the Eighth Amendment. *See Roper v. Simmons*, 543 U.S. 551, 573-74 (2005) (finding that the vulnerabilities and differences between juveniles and adults means the death penalty cannot be imposed against juveniles under the Eighth Amendment); *see also Graham v. Florida*, 560 U.S. 48, 68-69 (2010) (recognizing broad consensus that juveniles are psychologically more vulnerable than adults and that "developments in psychology and brain science continue to show fundamental differences between juveniles and adult minds" to conclude that Eighth Amendment prohibits juveniles to be sentenced to life without parole for non-homicide offenses); *Miller v. Alabama*, 132 S. Ct. 2455, 2464 (2012) (recognizing "children are constitutionally different from adults for sentencing purposes" when striking down mandatory life without parole sentences in violation of the Eighth Amendment for juveniles convicted of homicide). This analysis applies here.

B. Plaintiffs Adequately Allege That Defendants' Use of Solitary Confinement Objectively Poses a Substantial Risk of Serious Harm for Children

Defendants contend that Plaintiffs' allegations are insufficient to satisfy the first prong of the Eighth Amendment standard. They argue that Plaintiffs cannot rely on experts from multiple disciplines to support that solitary confinement objectively poses a substantial risk of serious harm for children, and that Plaintiffs have not alleged sufficient actual harm. These arguments fail. The authorities

so trauma can cause permanent changes and expose children to a higher risk of psychiatric conditions like paranoia and anxiety. ECF 2 ¶ 69. Children and adolescents also have a greater need for social stimulation than adults and experience time differently – making time spent in isolation even more tortuous and the damage more

much higher than average rates of Adverse Childhood Experiences (ACEs) – with serious long-term harmful impacts to their health and well-being. *Id.* ¶ 72.

These authorities also support Plaintiffs' assertion that the deprivations of solitary confinement are sufficiently serious when the conditions are evaluated in light of contemporary standards of decency that mark the progress of a maturing society.[6] *See, e.g.*, *Harvard*, 2019 WL 5587314, at *3; *V.W. v. Conway*, 236 F. Supp. 3d 554, 583-84 (N.D.N.Y. Feb. 22, 2017) (granting preliminary injunction to class of 16- and 17-year-old juveniles finding violation of the Eighth Amendment for solitary confinement of children in jail); *Doe v. Hommrich*, 2017 WL 1091864, at *2 (M.D. Tenn. March 22, 2017) (granting preliminary injunction for class of juveniles in solitary confinement for punitive or disciplinary purposes and finding such conditions constitute inhumane treatment under the Eighth Amendment). Defendants are incorrect that these sources and allegations are irrelevant to Plaintiffs' claim. ECF 13 at 6.

Well-established legal authority also supports that the solitary confinement of children, even for very short periods of time, poses a substantial risk of serious harm due to their particular vulnerability, as they are developmentally, psychologically, and physiologically different from adults. *See H.C. v. Jarrard*,

[6] Plaintiffs' allegations about reforms in other jurisdictions show that other state juvenile and adult correctional systems have recognized these risks of harm and have taken action to address it. ECF 2 ¶¶ 73-77. Defendants raise a factual dispute about some of these authorities, but the court must accept Plaintiffs' allegations as true. *Iqbal*, 556 U.S. at 678.

786 F.2d 1080, 1088 (11th Cir. 1986) (finding evidence that isolating children for seven days can cause serious harm and that "juveniles are even more susceptible to mental anguish than adult convicts"); *see also Feliciano v. Barcelo*, 494 F. Supp. 14, 35 (D.P.R. 1979) (finding solitary confinement of young adults is unconstitutional under the Eighth Amendment); *Inmates of Boys' Training Sch. v. Affleck*, 346 F. Supp. 1354, 1360, 1366-67 (D. R.I. 1972) (finding Eighth Amendment violation where juveniles isolated three to seven days in dark, stripped confinement cell with inadequate heat and no human contact); *Lollis v. New York State Dep't of Soc. Svcs.*, 322 F. Supp. 473, 481-82 (S.D.N.Y. 1970) (finding isolation of juveniles in barren room for two days violates Eighth Amendment based on evidence that "isolation is psychologically destructive" and impact on mental health "will always be serious"); *Hommrich*, 2017 WL 1091864, at *2 (finding Eighth Amendment violation for youth in solitary confinement five days). Defendants' assertion that only prolonged isolation for years on end may result in a "serious harm" simply ignores these authorities.

This risk of serious harm is compounded for the named Plaintiffs, and the disability subclass, who suffer from mental illness. *See, e.g.*, *Madrid v. Gomez*, 889 F. Supp. 1146, 1265 (N.D. Cal. 1995) (finding Eighth Amendment violation based on the risk of developing an injury to mental health for all prisoners and the "particularly high risk" for those with existing mental illness); *Braggs v. Dunn*,

257 F. Supp. 3d 1171, 1185 (N.D. Ala. 2017) (finding placement in segregation endangers mentally ill prisoners and risk of harm increases with the length of isolation and severity of mental illness); *Casey v. Lewis*, 834 F. Supp. 1477, 1549-50 (D. Ariz. 1993) (finding Eighth Amendment violation where department routinely assigns or transfers prisoners with serious mental illness to segregation units). A significant percentage of children in the juvenile justice system, including Plaintiffs and the disability subclass, have a mental health disorder. ECF 2 ¶¶ 5, 14, 23, 30, 70-71, 95-100. For these children, the serious psychological harm caused by solitary confinement is even more devastating and can cause a heightened risk of worsening mental health symptoms and risk for suicide when combined with the lack of any meaningful or normal social activity and the stress of isolation. *Id.* When these children, such as G.H., act out as a manifestation of their disabilities by yelling or striking their cell doors, DJJ responds by adding more time to their isolation. *Id.* This further increases the risk of serious harm to their health and safety. *Id.*

Defendants argue that children in DJJ experience "temporary confinement by DJJ to discipline juveniles" and this is different from "prolonged confinement" that is "serious harm" recognized in *Davis v. Ayala*, 135 S. Ct. 2187, 2208 (2015). ECF 13 at 37. This argument fails.

"Serious harm" is not the correct legal standard to prove the objective part of an Eighth Amendment conditions of confinement claim. *See* Section IV.A.,

children (or adults) from solitary confinement. *See* ECF 13 at 13-14; ECF 2 ¶¶ 32-35, 58-60, 64, 67, 71, 72. The risk begins immediately. Defendants' repeated use of isolation compounds the risk of harm (and actual harm). These are risks that our society chooses not to tolerate, especially for children, under "evolving standards of decency that mark the progress of a maturing society." *Thomas*, 614 F.3d at 1304.

There is a substantial risk of serious harm where conditions "alone or in combination" may deprive incarcerated people of "the minimal civilized measure of life's necessities." *See Rhodes v. Chapman*, 452 U.S. 337, 346 (1981); s*ee also Quintanilla v. Bryson*, 730 F. App'x 738, 746 (11th Cir. 2018). Courts recognize exercise, social interaction, environmental stimulation, and sanitation as basic human needs meeting this standard under the Eighth Amenduesoca

meaning that a prisoner must show that condition of confinement deprive them of basic human needs that result in an unreasonable risk of serious damage to his future health or safety. *Quintanilla*, 730 F. App'x at 747 (citation omitted); *Harvard*, 2019 WL 55871314, at *7.

Plaintiffs allege that the cumulative effects of the deprivations of normal human contact, environmental stimulation, recreation, meaningful social interaction, reading or writing materials, property, education, and sanitation that they experience in solitary confinement subject them to a substantial risk of serious psychological and physiological harm. ECF ¶¶ 2, 47, 54-57, 62-77. *See Quantanilla*, 730 F. App'x at 747; *see also* ECF 2 ¶ 47 (children are isolated from others in a locked room for indefinite period of time with no meaningful social interaction or environmental stimulation); *Id*. ¶¶ 54-55 (deprivations of social interactions and normal human communication with staff or other children); *Id*. ¶ 54 (forced idleness and deprivation of environmental stimulation); *Id*. ¶ 54 (deprivations of school); *Id*. ¶ 54 (deprivations of recreation programming, access to phones, radios, or televisions); *Id*. ¶ 54 (deprivations of personal property or writing materials); *Id*. ¶ 56 (confinement cells are dirty, have peeling paint, graffiti, backed-up toilets smelling of human waste, insects that bite children); *Id*. ¶ 56
(

C. Plaintiffs Adequately Allege That Defendant Knew of and Disregarded the Substantial Risk of Harm Inflicted on Children by DJJ's Solitary Confinement Policy and Practice

Plaintiffs have stated an Eighth Amendment claim because they allege that Defendants acted with deliberate indifference by knowing about and disregarding a risk to children's health and safety by conduct that is more than gross negligence. *See Farmer*, 511 U.S. at 837; *see also Thomas*, 614 F.3d at 1312. To disregard a deprivation or risk means to "fail[] to take reasonable measures to abate it." *Farmer*, 511 U.S. at 847. The Complaint pleads Defendants' deliberate indifference in several ways.

Circumstantial evidence and the obviousness of the substantial risk of harm are adequate to demonstrate subjective awareness under the Eighth Amendment – actual notice is not required. *See Farmer*, 511 U.S. at 842-44. Defendants are aware of the substantial risk of serious harm to children from their use of isolation based on previous notice. Prior litigation on behalf of children with mental illness and developmental disabilities challenged 8(.)6(S)5(.)6d-6w 8.949 0 Td(d)-8fd lis(da)-1(f)u(the)

placed in a locked room alone. *Id.* ¶¶ 91-92. In secure detention, however, Defendants' policy and practice is to isolate children in solitary confinement – often the same child repeatedly – with no time limit, in a locked room, with no prope *d(tvi)TJ /TT0 1 Tf 0 Tc 0 Tw ( )226103Td [(tTj EMC /P <</MCID 0 >2BDC*

2018 from Plaintiffs’ counsel

Defendants are aware of their frequent and repeated use of solitary

See, e.g., *Thomas*, 614 F.3d at 1317 (addressing injunction issued following district court finding that the repeated use of chemical agents violated the Eighth Amendment); *Ashker v. Governor of California*, 2014 WL 2465191, at *8 (N.D. Cal. June 2, 2014) (finding 18 U.S.C. § 3626(a)(1) "governs the scope of injun

Defendants mischaracterize Plaintiffs' inclusion of the relief requested in this action as a "demand" that the court enter injuncti

12102(1). "Major life activities" include caring for oneself, seeing, hearing, eating, sleeping, walking, speaking, communicating, breathing, learning, reading, concentration, thinking, and the operation of neurological and brain functions. 42 U.S.C. § 12102(2). "In virtually all cases," certain impairments, including post-traumatic stress disorder and bipolar disorder, constitute a "disability" under the ADA because they inherently impose substantial limitations on major life activities. *See* 28 C.F.R. § 35.108(d)(2)(ii)-(iii);[10] *see also Coker v. Enhanced Senior Living, Inc.*, 897 F. Supp. 2d 1366, 1375 (N.D. Ga. 2012). The term "'substantially limits' shall be construed broadly in favor of expansive coverage." 28 C.F.R. § 35.108(d)(1)(i). "[T]he threshold issue of whether an impairment substantially limits a major life activity should not demand extensive analysis." 28 C.F.R. § 35.108(d)(1)(ii).

Plaintiffs each allege impairments that substantially limit major life activities. Plaintiff G.H. has an emotional behavioral disorder, depression, a learning disorder, and anxiety, all of which substantially limit his ability to think, learn, and breathe. ECF 2 ¶ 14.; *see* 28 C.F.R. §§ 35.108(b)(1), (2) & (c)(1); *see also Wilf v. Board of Regents of Univ. System of Ga.*, 2012 WL 12888680, at *18 (N.D. Ga. Oct. 15, 2012) (recognizing individual with depression, learning disability, and Attention Deficit Hyperactivity Disorder as a qualified individual

[10] These regulations must be given legislative and controlling weight. *See Shotz v Cates*, 256 F.3d 1077, 1079 n.2 (11th Cir. 2001).

with a disability). Plaintiff G.H. also engaged in self-harm twice while in isolation by wrapping his pants around his neck to choke himself. ECF 2 ¶¶ 18-19. This illustrates how his psychiatric disabilities substantially limit his ability to care for himself. *See Peters v. Baldwin Union Free Sch. Dist.*, 320 F.3d 164, 168 (2d Cir. 2003) ("A mental illness that impels one to suicide can be viewed as a paradigmatic instance of inability to care for oneself.").

Plaintiff R.L. has been diagnosed with bipolar disorder, post-traumatic stress disorder, major depressive disorder, conduct disorder, intermittent explosive disorder, emotional behavioral disorder, and a learning disability. ECF 2 ¶ 23; 28 C.F.R. § 35.108(b)(1) & (2). These impairments substantially limit her ability to concentrate, learn, interact with others, think, and her brain functions (i.e., regulate impulsive behaviors, maintain self-control, and respond appropriately to conflict with others). ECF 2 ¶ 23; *see* 28 C.F.R. § 35.108(c)(1) & (d)(iii)(K); *see also Harvard*, 2019 WL 5587314, at *8-9 (

identify or recognize this behavior as disability related and provide the accommodations, supports, and services that R.L. and G.H. need, and, instead, responds by labeling this "misbehavior" and sends Plaintiffs to, or extends their time in, solitary confinement. *Id.* ¶ 97.[11] Each of these constitutes an independent

DJJ has also engaged in disability discrimination by failing to adopt policies and procedures to ensure that children with disabilities are housed in the most integrated setting appropriate to their needs. ECF 2 ¶ 99. DJJ subjects Plaintiffs R.L., G.H., and B.W., who have psychiatric disabilities, to solitary confinement when they engage in nonconforming behaviors due to their disabilities, instead of housing them in settings where they can receive needed treatment and services to live safely with others. *Id.* ¶ 99. For example, children like B.W., who has ADHD, may exhibit impulsive behavior like fighting with peers or being unable to focus on staff directions. Children like B.W. do not receive supportive mental health services, behavior interventions, and de-escalation assistance. Instead, they are housed in the most restrictive setting: solitary confinement. *Id.*

Defendants contend, without any legal authority, that it is "fatal" that none of the Plaintiffs "identify an available reasonable accommodation[.]" ECF 13 at 30. Plaintiffs have no such pleading requirement or evidentiary burden to meet. *See Nattiel v. Fla. Dep't of Corr.*, 2017 WL 5774143, at *1 (N.D. Fla. Nov. 28, 2017) (finding that a specific demand for an accommodation is unnecessary when FDC knows about the person's disabilities); *see also Pierce v. D.C.*, 128 F. Supp. 3d 250, 269 (D.D.C. 2015) (concluding that the defendant's "insistence here that prison officials have no legal obligation to provide accommodations for disabled

2982907, at *5 (N.D. Fla. Sept. 14, 2009). Defendants list numerous questions they have about this case which do not address any "unintelligibility" of the Complaint, but simply seek additional details about the nature of the claims and the relief sought. *See* ECF 13 at 31 (e.g., length of time in confinement that violates Constitution, method of calculating confinement time, difference between confinement rooms and being confined to one's own room). These are precisely the kinds of questions that are inappropriate for a motion for a more definite statement and can be asked in discovery. *See Foster v. Dead River Causeway, LLC*, 2014 WL 4049899, at *2 n.2 (M.D. Fla. Aug. 14, 2014). Defendants have failed to meet their burden to establish that a more definite statement is warranted.

VIII. Conclusion

For the foregoing reasons, Defendants have failed to establish that dismissal of this case is warranted or that the court should require a more definite statement. Plaintiffs respectfully request that the court deny Defendants' Motion to Dismiss Plaintiffs' Class Action Complaint, and, Alternatively, Motion for a More Definite Statement. ECF 13.

Certificate of Word Limit

Pursuant to N.D. Loc. R. 7.1(F), the undersigned counsel hereby certifies compliance with the word limits and that this motion contains

Dated: November 18, 2019

Respectfully submitted,

By: s/ Andrea Costello

Andrea Costello
Fla. Bar No. 0532991
Christopher M. Jones
Fla. Bar No. 994642
Jennifer Painter
Fla. Bar No. 110966
Florida Legal Services
122 E. Colonial Drive, Suite 100
Orlando, FL 32801
Telephone: (407) 801-

New Orleans, LA 70170
Telephone: (334) 549-0498
lisa.graybill@splcenter.org

Dante P. Trevisani
Fla. Bar No. 72912
Laura A. Ferro
Fla. Bar No. 1015841
Florida Justice Institute, Inc.
100 S.E. 2nd St., Ste 3750
Miami, FL 33131
Telephone: (305) 358-2081
dtrevisani@floridajusticeinstitute.org
lferro@floridajusticeinstitute.org

**Admitted pro hac vice*

Attorneys for Plaintiffs