

1 KENDALL BRILL & KLIEGER LLP
Bert H. Deixler (SBN 70614)
2 *bdeixler@kbbkfirm.com*
Laura W. Brill (SBN 195889)
3 *lbrill@kbbkfirm.com*
Cassie D. Palmer (SBN 268383)
4 *cpalmer@kbbkfirm.com*
10100 Santa Monica Blvd., Suite 1725
5 Los Angeles, California 90067
Telephone: 310.556.2700
6 Facsimile: 310.556.2705

7 Attorneys for Plaintiff
STEPHEN LOUIS RUDISILL

8
9 **UNITED STATES DISTRICT COURT**
10 **DISTRICT OF ARIZONA**

12 STEPHEN LOUIS RUDISILL,
13 Plaintiff,

14 v.

15 JANICE BREWER, Governor of
Arizona; CHARLES RYAN, Director,
16 Arizona Department of Corrections;
ROBERT PATTON, Division Director
17 of Offender Operations, Arizona
Department of Corrections; THERESE
18 SCHROEDER, Warden, Arizona State
Prison Complex-Tucson; DANIAL
19 LUNDBERG, Deputy Warden, Arizona
State Prison Complex-Tucson, in their
20 official and individual capacities, AND
DOES 1-100, INCLUSIVE,
21 Defendants.

Case No. 4:13-cv-01149-CKJ-PSOT

[Cindy K. Jorgenson, Judge Presiding]

**FIRST AMENDED PRISONER
CIVIL RIGHTS COMPLAINT FOR
VIOLATION FOR EQUAL
PROTECTION; 42 U.S.C. § 1983**

DEMAND FOR JURY TRIAL

Action filed: September 13, 2013

PRELIMINARY STATEMENT

1
2 1. This action challenges the long-standing, intentional, systemic and
3 shameful racial discrimination at Arizona State Prison Complex-Tucson (“Prison
4 Complex”).

5 2. Plaintiff Stephen Louis Rudisill (“Rudisill”), an African-American
6 male housed at the Prison Complex, has been and remains assigned to and retained
7 in segregation on the basis of his race, in violation of the Equal Protection Clause of
8 the Fourteen Amendment of the United States Constitution. Defendants’
9 deprivation of Rudisill’s right to equal protection under the law has subjected him to
10 needless and serious harm.

11 3. The impermissibility of the racial discrimination alleged herein has
12 been clearly established since the Supreme Court’s ruling in *Johnson v. California*,
13 543 U.S. 499 (2005) (holding that prison racial-segregation policies are subject to
14 strict scrutiny even when those policies affect all races equally). *See also Turner v.*
15 *Safley*, 482 U.S. 78, 84 (1987) (“Prison walls do not form a barrier separating prison
16 inmates from the protections of the Constitution . . . [P]risoners . . . are protected
17 against invidious racial discrimination by the Equal Protection Clause of the
18 Fourteenth Amendment” (citations omitted)); *Washington v. Lee*, 263 F. Supp.
19 327, 331 (M.D. Ala. 1966) (three judge panel), *aff’d*, 390 U.S. 333 (1968) (per
20 curiam) (declaring Alabama’s prison segregation policy unconstitutional and
21 holding that “it is unmistakably clear that racial discrimination by governmental
22 authorities in the use of public facilities cannot be tolerated”).

23 4. Flouting the holding of the United States Supreme Court, which has
24 been the undisputed law of the land for decades, the State of Arizona, through its
25 Governor and prison officials, persists in continuous, overt, intentional, shameful,
26 and systematic racial segregation in the areas of housing and personal care of the
27 prisoners.

1 5. The Defendants, including Governor Brewer, have been informed of
2 these violations. Not only have the Defendants refused to correct the violations,
3 they have reaffirmed their intention to continue to violate the law.

4 6. This lawsuit is brought to end this shameful and lawless conduct by the
5 Defendants, who are responsible for enforcing the law, yet refuse to do so. The days
6 of governmental discrimination based on race are over, and Arizona, its Governor,
7 and its prison officials must obey the law of the land.

8 **PARTIES**

9 7. Rudisill is a citizen of Arizona. He presently is incarcerated at the
10 Arizona State Prison Complex in Tucson, Arizona.

11 8. Defendant Janice Brewer is the Governor of the State of Arizona (the
12 “Governor” or “Governor Brewer”) and heads the Executive Branch of Arizona’s
13 government. In that capacity, Governor Brewer selects and appoints the Director of
14 the Arizona Department of Department of Corrections. Governor Brewer is vested
15 with ultimate authority and responsibility over the corrections system. Governor
16 Brewer is sued for declaratory and injunctive relief in her official capacity and for
17 damages in her individual capacity.

18 9. The remaining Defendants are agents, officials, or employees of the
19 State of Arizona Department of Corrections (“ADC”).

20 10. Defendant Charles Ryan (“Ryan”) is a citizen of Arizona and is
21 employed as Director (“Director”) of the ADC and exercises administrative control
22 of, and responsibility for, the ADC. As Director of the ADC, Mr. Ryan is
23 responsible for establishing, administering, and applying statewide operations,
24 policies, institutions, and programs of the ADC, which directly affect how inmates
25 are housed and employed at the Prison Complex, including Plaintiff Rudisill. *See*
26 *Ariz. Rev. Stat. § 31-201, 41-1604.* As Director, Mr. Ryan also is responsible for
27 decisions concerning staff deployment and training, which directly affect how
28 inmates are housed and employed at the Prison Complex, including Plaintiff

1 Rudisill. Director Ryan is sued for declaratory and injunctive relief in his official
2 capacity and for damages in his individual capacity.

3 11. Defendant Robert Patton (“Patton”) is a citizen of Arizona and is
4 employed as the Division Director of Offender Operations for the ADC (“Division
5 Director”). In the capacity of Division Director, he oversees the Offender Services
6 Bureau, which is responsible, *inter alia*, for offender classification and movement
7 and population management. According to ADC Department Orders, the Division
8 Director must monitor racial parity and/or imbalance within the prisons, including
9 the Prison Complex. ADC Department Orders also require that the Division
10 Director receive bed information data sheets from the appropriate Regional
11 Operators Director for signature and placement into the Offender Operations Master
12 Bed Record. According to ADC Department Orders, Offender Services maintains a
13 record of Director-approved changes to beds and/or bed counts, as well as the Bed
14 Information Data Sheets. Division Director Patton is sued for declaratory and
15 injunctive relief in his official capacity and for damages in his individual capacity.

16 12. Defendant Therese Schroeder (“Schroeder”) is a citizen of Arizona and
17 is employed as the Warden of the Prison Complex (“Warden”). In her capacity as
18 Warden, Ms. Schroeder is responsible for the day-to-day operations of the entire
19 Prison Complex, including the Manzanita and Santa Rita Units. Pursuant to the
20 ADC Department Orders, she is required to report to the Division Director for
21 Offender Operations any significant problems arising from, *inter alia*, racial parity
22 and/or imbalance. Warden Schroeder is sued for declaratory and injunctive relief in
23 her official capacity and for damages in her individual capacity.

24 13. Defendant Danial Lundberg is a citizen of Arizona and is employed as
25 the Deputy Warden (“Deputy Warden”) of the Prison Complex. In his capacity as
26 Deputy Warden, he is responsible for the accounting of all beds within the Prison
27 Complex, including the Manzanita Unit. Pursuant to the ADC Department Orders,
28 he is required to report to the Division Director for Offender Operations any

1 significant problems arising from, *inter alia*, racial parity and/or imbalance. ADC
2 Department Orders also require the Deputy Warden to review housing
3 recommendations and approve or deny housing assignments. ADC Department
4 Orders give the Deputy Warden “the final approval authority for all housing
5 assignments.” Deputy Warden Lundberg is sued for declaratory and injunctive
6 relief in his official capacity and for damages in his individual capacity.

7 14. At all relevant times, Defendants have acted under the color of state
8 law.

9 15. Defendants DOE 1 through DOE 100, inclusive, are sued under
10 fictitious names. Their true names and capacities are unknown to Plaintiff. When
11 their true names and capacities are ascertained, Plaintiff will amend this complaint
12 by inserting their true names and capacities. Plaintiff is informed and believes and
13 therefore alleges that each of the fictitiously named defendants is responsible in
14 some manner for the occurrences alleged, and that Plaintiff’s harms as alleged were
15 proximately caused by those Defendants.

16 **JURISDICTION AND VENUE**

17 16. This civil action seeks declaratory and injunctive relief and is brought
18 pursuant to 42 U.S.C. § 1983, in that Plaintiff has been and continues to be deprived
19 of his rights secured by the United States Constitution under the Fourteen
20 Amendment.

21 17. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 and 1343(a).

22 18. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because
23 all Defendants reside in the State of Arizona and a substantial part of the events or
24 omissions giving rise to this claim occurred in this District.

1
2 **FACTUAL ALLEGATIONS**

3 **A. Housing Assignments According to Race**

4 19. Plaintiff is an African-American adult male and currently is
5 incarcerated at the Prison Complex. Plaintiff grew up in North Carolina, when the
6 vestiges of segregation remained strong.

7 20. The Prison Complex is one of thirteen prison facilities operated by the
8 Arizona Department of Corrections. As of November 2013, the Prison Complex
9 housed approximately 5,050 inmates. Within the Prison Complex, inmates are
10 housed in eight units: Catalina, Complex Detention Unit (“CDU”), Cimarron,
11 Manzanita, Rincon, Santa Rita, Whetstone, and Winchester.

12 21. Plaintiff arrived at the Prison Complex on May 31, 2011 and was
13 assigned to the Manzanita Unit.

14 22. On or around November 4, 2013, Plaintiff was transferred to the Santa
15 Rita Unit.

16 23. Since being housed at the Prison Complex, Plaintiff has shared a cell or
17 other housing accommodations with African-American inmates only, despite
18 requesting numerous times to be housed with an inmate of a different race.

19 24. In the Manzanita and Santa Rita Units all inmates are housed according
20 to racial classifications—Caucasian inmates are double-bunked with Caucasian
21 inmates only; African-American inmates are double-bunked with African-American
22 inmates only; Latino inmates are double-bunked with Latino inmates only; Native
23 American inmates are double-bunked with Native American inmates only.

24 25. On information and belief, all inmates at the Prison Complex are
25 segregated in their housing units according to race.

26 **B. Other Racial Segregation**

27 26. Correction Officers three (3) and four (4) determine which inmates will
28 be employed at which job.

1 27. In the Manzantia Unit, inmate workers who assist inmates with
2 physical disabilities assist inmates of the same race only—Caucasian inmates assist
3 Caucasian inmates only; African-American inmates assist African-American
4 inmates only; Latino inmates assist Latino inmates only; Native American inmates
5 assist Native American inmates only.

6 28. On information and belief, all job assignments within the Prison
7 Complex are assigned according to racial quotas established by the prison officials,
8 including the Defendants sued herein.

9 29. Inmates who are employed as barbers must use separate barber tools,
10 which are in separate boxes, numbered 1 through 6. Caucasian barbers must use
11 boxes numbered 2 and 4; Latino barbers must use boxes number 1 and 3; African-
12 American barbers must use the box numbered 5; and Native American Barber must
13 use the Box numbered 6.

14 30. Prison Complex officials post an “Inmate Barber/Braider Work
15 Schedule” (“Work Schedule”) on the Inmate Bulletin Boards, the Correctional
16 Officers’ Control booth, and Correctional Officer Office #3. This Work Schedule
17 states the name of the barber and includes the barber’s race and the box number
18 assignment.

19 31. In the Manzanita Unit and Santa Rita Units, inmate barbers cut the hair
20 of inmates who are of the same race only—Caucasian inmate barbers cut Caucasian
21 inmates’ hair only; African-American inmate barbers cut African-American
22 inmates’ hair only; Latino inmate barbers cut Latino inmates’ hair only; Native
23 American inmate barbers cut Native American inmates’ hair only.

24 32. On information and belief, all inmate barbers within the Prison
25 Complex are assigned according to race.

26 **C. Effects of Racial Segregation on Plaintiff and Other Inmates**

27 33. The institutional segregation promulgated by prison officials, including
28 Defendants, fosters an environment of distrust and racial animus among inmates.

1 This environment leads to self-segregation and results in threats, intimidation, and
2 violence, which is encouraged and/or tolerated by prison officials, including
3 Defendants.

4 34. The violation of Mr. Rudisill's constitutional right to equal protection
5 under the law is itself a harm that entitles Mr. Rudisill to the relief he seeks herein.
6 *See Canell v. Lightner*, 143 F.3d 1210, 1213 (9th Cir. 1998) (holding that the
7 deprivation of certain constitutional rights "entitles a plaintiff to judicial relief
8 wholly aside from any physical injury he can show, or any mental or emotional
9 injury he may have incurred," and, "regardless of the form of relief sought")
10 (emphases added).

11 35. In addition, as a result of Defendants' discriminatory, shameful, and
12 unconstitutional actions, Mr. Rudisill has suffered humiliation, mental anguish, and
13 emotional and physical distress.

14 **D. Plaintiff's Notification to Prison Officials of the Unlawful Policies**
15 **and Practices**

16 36. In a letter to Director Ryan, dated May 18, 2013, Plaintiff described the
17 racial discrimination and the systemic segregation in his Unit at the Prison Complex
18 in the areas of housing, dining, and employment. The letter is attached hereto as
19 Exhibit 1. Despite receiving this letter, Director Ryan refused to amend the
20 unconstitutional policy and indeed confirmed his intention to persist in applying it.

21 37. In a letter dated May 18, 2013, Plaintiff also wrote to Warden
22 Schroeder about the racial segregation of inmates with the Prison Complex. The
23 letter is attached hereto as Exhibit 2. Despite receiving this letter, Warden
24 Schroeder refused to amend the unconstitutional policy and indeed confirmed her
25 intention to persist in it.

26 38. On May 23, 2013, Deputy Warden Lundberg interviewed Plaintiff
27 regarding his letters to Warden Schroeder and Director Ryan.

1 39. On May 28, 2013, Plaintiff received an “Inmate Letter Response” from
2 Deputy Warden Lundberg regarding the May 23, 2013 interview. The letter is
3 attached hereto as Exhibit 3. The letter states that the issues in Plaintiff’s May 18,
4 2013 letter to Warden Schroeder “were not brought to Deputy Warden Lundberg’s
5 attention until now.” The letter confirms that Deputy Warden Lundberg met with
6 Plaintiff on May 23, 2013 to discuss Plaintiff’s concerns. As to segregation in
7 inmate housing, Deputy Warden Lundberg states, “In regard to your issue of
8 segregation in the housing unit, you felt that the inmates should [sic] be housed
9 according to race. You believe that all should be integrated (ie: mexican living with
10 white or black, not black with black, mexican with mexican etc.) . . . [T]he unit
11 balance is in compliance with policy D.O. 903. INMATE WORK PROGRAMS 1.7
12 A racial balance and integrated work crews shall be maintained.” As to the
13 assignment of inmate jobs by race, Deputy Warden Lundberg states that “Manzanita
14 jobs are assigned according to submitted application” and that assignments are
15 based, first on an inmate’s eligibility for the job, and then—after eligibility has been
16 established—on the application date and Phase level. If an inmate is not eligible for
17 a certain job, he is so notified. “All jobs are racially balanced as much as possible.”
18 And, “[h]ousing is racial parity per housing unit and sides.” As to dining,
19 “[m]ealtime is open yard where the inmates are free to enter the Dining Hall and
20 they choose where they wish to sit.” Deputy Warden Lundberg states that inmates
21 generally select their own ADA assistants. Deputy Warden Lundberg states, “All
22 future concerns need to be addressed to Deputy Warden Lundberg”

23 40. Plaintiff received a nearly identical “Inmate Response Letter,” dated
24 June 4, 2013, from Director Patton. The letter is attached hereto as Exhibit 4. The
25 letter states that Deputy Warden Lundberg met with Plaintiff on May 23, 2013 to
26 discuss Plaintiff’s concerns. The letter states, “In regard to your issue of segregation
27 in the housing unit, you feel that the inmates should [sic] be housed according to
28 race. You believe that all should be integrated (i.e: Hispanics living with

1 Caucasians or African Americans. The Unit is racially balanced and is in
2 compliance with D.O. 903. Inmate Work Programs – 1.7 A racial balance and
3 integrated work crews shall be maintained.” As to Plaintiff’s contention that inmate
4 jobs are assigned according to race, the letter states, “Manzanita jobs are assigned
5 according to submitted applications. Each application is reviewed to ensure the
6 inmate is eligible for the job he is applying for. If he is not eligible for a particular
7 job, then he will be given a reason. Once inmate applications have cleared the
8 eligibility process, they are then sorted by the application date and Phase Level.” As
9 to inmate barbers being segregated by race, Director Patton states that “[a]n inmate
10 barber can cut any other inmate[’s] hair if that inmate chooses. This is demonstrated
11 by ADC staff using the same barber equipment for all staff.” The letter notes:
12 “Deputy Warden Lundberg and his leadership team are in charge of the Manzanita,
13 not the inmates.” Finally, the letter states, “All future concerns should be addressed
14 through the Manzanita chain of command.”

15 41. On June 10, 2013, Deputy Warden Lundberg delivered an Inmate
16 Response Letter from Warden Schroeder to Plaintiff’s May 18, 2013 letter. The
17 letter is attached hereto as Exhibit 5. When Deputy Warden Lundberg delivered the
18 letter, he stated that Rudisill’s letter to Warden Schroeder “was uncalled for; nothing
19 going to happen; all letters get filtered back to me, I run the prison.” Plaintiff asked
20 Deputy Warden Lundberg to provide that statement in writing, but Defendant
21 Lundberg declined.

22 42. Warden Schroeder’s “Inmate Response Letter,” dated June 7, 2013,
23 was almost identical to the letters from Deputy Warden Lundberg and Director
24 Patton. The letter states, “You believe that all [housing units] should be integrated
25 (i.e: Hispanics living with Caucasians or African Americans. The Unit is racially
26 balanced and is in compliance with D.O. 903. Inmate Work Programs – 1.7 A racial
27 balance and integrated work crews shall be maintained.” As to Plaintiff’s
28 contentions regarding job assignments according to race, Warden Schroeder states

1 that “Manzanita jobs are assigned according to submitted applications. Each
2 application is reviewed to ensure the inmate is eligible for the job he is applying for.
3 If he is not eligible for a particular job, then he will be given a reason. Once inmate
4 applications have cleared the eligibility process, they are then sorted by the
5 application date and Phase Level.” As to inmate barbers being assigned by race,
6 Warden Schroeder states that “[a]n inmate barber can cut any other inmate[’s] hair if
7 that inmate chooses. This is demonstrated by ADC staff using the same barber
8 equipment for all staff.” At the end of the letter, she states, “Deputy Warden
9 Lundberg and his leadership team are in charge of the Manzanita, not the inmates . .
10 . . All future concerns should be addressed through the Manzanita chain of
11 command.”

12 43. On June 12, 2013, Plaintiff filed an “Informal Inmate Complaint
13 Resolution” (“Informal Complaint”) attached hereto as Exhibit 6. In the Informal
14 Complaint, Plaintiff states that the Prison Complex maintains segregation in the
15 areas of housing, dining, barbers, and job assignments, and that prison officials
16 provide ADA assistants who are of the same race as the disabled prisoners they are
17 assisting.

18 44. Plaintiff sent a letter, dated June 17, 2013, to Governor Brewer. The
19 letter is attached hereto as Exhibit 7. In the letter, Plaintiff states that inmates in his
20 Unit of the Prison Complex are “systematically housed . . . by prison officials” with
21 inmates of the same race, in violation of the Equal Protection Clause. Plaintiff also
22 states that inmates in his Unit of the Prison Complex are assigned jobs based on “a
23 racial quota system” and not a system that provides jobs to “the best qualified
24 inmates,” in violation of the Equal Protection Clause. Plaintiff states that barbers
25 also are assigned by race. Plaintiff asserts that the segregation policies “foster[] an
26 atmosphere of threats, intimidation and violence in the prison system; that prison
27 officials accept and tolerate.” Despite receiving this letter, Governor Brewer never
28 responded or affected a change to the unconstitutional policy.

1 45. Prison Complex officials responded to Plaintiff's Informal Complaint
2 in an "Informal Inmate Complaint Response," dated June 18, 2013. A copy of the
3 Response is attached hereto as Exhibit 8. The Response states, "Your primary issue
4 is segregation. You feel that inmates should not be housed according to race. You
5 believe that all should be integrated (i.e.: Mexican/Americans living with
6 Caucasians or Blacks). the Unit is racially balanced and is in compliance with D.O.
7 903.1.7, Inmate Work Programs, 'A racial balance and integrated work crews shall
8 be maintained.'" The Response states that Manzanita jobs are assigned according to
9 "submitted applications" and that such applications are review to ensure that the
10 "inmate is eligible for the job he is applying for." If the inmate is not eligible, he is
11 given a reason. If eligibility is confirmed, applications are sorted by application
12 date and Phase level." The Response contends that "[m]ealtime is based on an open
13 yard concept, where the inmates are free to enter the Dining Hall and they choose
14 where they wish to sit." As to ADA assistants, "inmates usually request the inmate
15 assistant/aide they want." Finally, the Response states that "[a]n inmate barber can
16 cut any other inmate's hair. This is demonstrated by ADC staff using the same
17 barber equipment for all staff." The Response states that if Plaintiff is dissatisfied
18 with the resolution, he may file a formal grievance.

19 46. Plaintiff filed Grievance No. C14-044-013 ("Grievance"), dated June
20 19, 2013. The Grievance is attached hereto as Exhibit 9. In the Grievance, Plaintiff
21 states that prison officials "are openly practicing and/or tolerating systematic;
22 systemic segregation (racial discrimination, de facto segregation based upon race
23 and/or ethnic group at the Arizona State Prison Complex Tucson and the Arizona
24 Department of Corrections. I contend that prison officials knowingly and
25 deliberately segregate White, Black, Hispanic, and Native Americans in the area of
26 housing (bunks and/or cells). Prison officials have separate barbers for each race,
27 and separate barber tools (numbered 1-6) for each race; the prison officials have
28

1 racial quota[s] for jobs. ADA inmates who need assistance are given a member of
2 their own race to assist them. Prison officials have violate[d] my rights.”

3 47. On June 20, 2013, Plaintiff wrote a letter to Defendant Warden
4 Schroeder about the systemic segregation at the Prison Complex. Plaintiff included
5 a copy of the letter he sent to Defendant Brewer. The letter is attached hereto as
6 Exhibit 10.

7 48. In an Inmate Grievance Appeal (“Initial Appeal”) relating to Grievance
8 No. C14-044-013, dated July 15, 2013 and stamped received on July 24, 2013,
9 Plaintiff states that he did not receive a response to his Grievance within 15 work
10 days. The Initial Appeal is attached hereto as Exhibit 11. In the Initial Appeal,
11 Plaintiff incorporates by reference his Grievance and states that the Prison Complex
12 officials “are openly practicing and/or tolerating systematic, systemic segregation
13 (racial discrimination, de facto segregation based upon race and/or ethnic group. I
14 contend that prison officials knowingly and deliberately segregate White, Black,
15 Hispanic, and Native Americans in the area of housing (bunks and/or cells), racial
16 quotas for jobs, separate barbers and tools.”

17 49. The response to Plaintiff’s Grievance (“Grievance Response”), dated
18 August 1, 2013 and attached hereto as Exhibit 12, states, “According to the WIPP
19 Board this Monday, racial balance is in compliance with Policy D.O. 903 INMATE
20 WORK ACTIVITIES: 1.7 A racial balance and integrated work crews shall be
21 maintained. Manzanita jobs are assigned according to submitted applications. Each
22 application is reviewed in ensure the inmate is eligible for the job that they are
23 applying for. If they are not, then they are told why not. Once they clear eligibility,
24 they are then sorted by the application date and phase level All jobs are racially
25 balanced as much as possible. Department Order (DO) 903 ‘Inmate Work
26 Activities’- is followed at the Manzanita Unit. Racial parity is maintained in each
27 house unit and side. Any inmate barber can cut any other inmates [sic] hair if that
28 inmate chooses. This is demonstrated by ADC staff using the same barber

1 equipment for all staff. The Manzanita unit is to be equal for all races to participate
2 equally in housing, meals, programs, recreation, medical and mental health.”

3 50. On August 4, 2013, Plaintiff wrote Defendant Ryan regarding Inmate
4 Grievance No. C14-044013 and other matters, and copied Warden Schroeder on the
5 letter. The letter is attached hereto as Exhibit 13.

6 51. On August 7, 2013, Plaintiff submitted an “Inmate Grievance Appeal”
7 (“Grievance Appeal”), attached hereto as Exhibit 14. In the Grievance Appeal,
8 Plaintiff states that the resolution he requested in Grievance “was not achieved,” in
9 that inmates still were being housed and assigned to jobs according to race. He
10 incorporated the Grievance by reference.

11 52. Plaintiff’s appeal was denied in an “Inmate Grievance Appeal
12 Response” (“Grievance Appeal Response”), dated August 22, 2013 and signed by
13 an appeals officer and Director Ryan. The Grievance Appeal Response is attached
14 hereto as Exhibit 15. The Grievance Appeal Response states, “[Y]ou claim the
15 department permits racial segregation. You assert White, Black, Hispanic and
16 Native American Indians are segregated in the living areas, jobs, dining hall and
17 separate barbers. You assert this is deliberate indifference. Your grievance appeal
18 has been reviewed at the Central Office and the Warden’s response is affirmed.
19 Inmate housing placement and job assignments, are based on institutional needs.
20 Barber assignments service the entire inmate population. Having multiple barbers
21 allows you to have your barber of choice. Lastly, inmates are permitted to sit where
22 there is an available seat. There is no assigned seating in the dining hall. Your
23 assertion of deliberate indifference are [sic] unfounded. No further action is
24 warranted in this matter.”

25 53. On October 10, 2013, Plaintiff sent an “Inmate Letter” to Deputy
26 Warden Lundberg. The letter is attached hereto as Exhibit 16. In the letter, Plaintiff
27 states that he previously spoke with Defendant Lundberg and sent letters to Warden
28 Schroeder and Director Ryan regarding the same issues. Plaintiff explains he is

1 “deeply concerned about the segregation of inmates by race in the Manzanita Unit.”
2 He states that ADC Department Orders require parity and racial balance in housing.
3 Plaintiff “respectfully request[s] that [he] be housed with an inmate of another race
4 when the next available bottom bunkbed ([he has] a lower bunk chrono) become[s]
5 open”

6 54. On October 11, 2013, Plaintiff sent an “Inmate Letter” to
7 Accountability Officer CO II R. Gamez. The letter is attached hereto as Exhibit 17.
8 In the letter Plaintiff states that the Prison Complex must maintain racial parity in
9 housing, and requests an assignment to the next available bunk with someone of a
10 different race. Plaintiff says, “I don’t care if the person is White or Hispanic. I
11 don’t agree with the segregation of inmate[s] by race.”

12 55. On October 23, 2013, Plaintiff was standing in the Manzanita “chow”
13 line. Accountability Officer CO II R. Gamez approached Plaintiff and stated, “I got
14 your letter requesting to be moved with another race. The next victim that comes in,
15 I’m going to put with you.”

16 56. Later the same day, Plaintiff received copies of the letters he wrote on
17 October 10 and 11, 2013, requesting that he be housed with an inmate of another
18 race. He did not receive responses to his letter, but instead received an “Inmate Cell
19 Change Request.” Plaintiff resubmitted his letters with the Inmate Cell Change
20 Request to Accountability Officer CO II R. Gamez.

21 57. Plaintiff received an Inmate Letter Response from Deputy Warden
22 Lundberg, dated October 22, 2013. The Response is attached hereto as Exhibit 18.
23 The Response states, “I am in receipt of your letter concerning racial parity and
24 segregation. I would like to first inform you that this is an open dorm, open yard
25 setting and all inmates house inter-racially. I would like to also reassure you that the
26 Department is well aware of racial parity and have systems in place to abide by this
27 policy. The Manzanita population is broken down into housing units (Excluding
28 ADA and SNU-HU6) fairly and according to policy.”

1 58. On or around November 4, 2013, Plaintiff was transferred to the Santa
2 Rita Unit, but continues to share a bunk with an inmate of the same race.

3 **CLAIM**

4 **(Violation of the Equal Protection Clause of the Fourteen Amendment;**
5 **42 U.S.C. § 1983)**

6 59. Plaintiff incorporates by reference all the allegations contained in
7 paragraphs 1 through 58.

8 60. The Equal Protection Clause of the Fourteenth Amendment to the
9 United States Constitution protects all persons, including prisoners, from invidious
10 discrimination based on race.

11 61. A prison classification based on race is immediately suspect and is
12 subject to the same strict scrutiny as a racial classification outside prison. *See*
13 *Johnson*, 543 U.S. at 509. Thus, any state policy of racial segregation must be
14 narrowly tailored to serve a compelling state interest. *Id.*

15 62. Defendants' acts and omissions were not narrowly tailored to address a
16 compelling state interest and accordingly violate of the Equal Protection Clause of
17 the Fourteenth Amendment.

18 63. As a proximate result of Defendants' egregious conduct, Mr. Rudisill's
19 constitutional rights were violated, and he has suffered shame, humiliation, mental
20 anguish, and emotional and physical distress, entitling him to injunctive relief and
21 damages in an amount to be determined at trial.

22 64. In light of Defendants' willful, knowing, and intentional violations of
23 law in the face of clear precedent declaring such conduct unconstitutional, and their
24 reckless and callous indifference to Mr. Rudisill's rights, Mr. Rudisill seeks an
25 award of punitive damages in an amount to be determined at trial.

26 **PRAYER FOR RELIEF**

27 65. Plaintiff has no adequate remedy at law to redress the wrongs suffered
28 as set forth in this complaint. Plaintiff has suffered and will continue to suffer

1 irreparable injury as a result of the unlawful acts, omissions, policies, and practices
2 of the defendants as alleged herein, unless Plaintiff is granted the requested relief.
3 The need for relief is critical because the rights at issue are paramount under the
4 Constitution of the United States.

5 66. WHEREFORE, Plaintiff requests that this Court grant the following
6 relief:

7 a) Declaratory and injunctive relief as follows:

- 8 i) Adjudge and declare that the acts, omissions, policies, and conditions
9 described above violate the Fourteenth Amendment, which grants
10 constitutional protection to Plaintiff;
- 11 ii) Order Defendants, their agents, officials, employees, and all persons
12 acting in concert with them under color of State law or otherwise, to
13 cease implementing the unconstitutional and unlawful acts, omissions,
14 policies, and conditions described above;
- 15 iii) Preliminarily and permanently enjoin Defendants, their agents,
16 officials, employees, and all persons acting in concert with them under
17 color of State law or otherwise, from subjecting Plaintiff the
18 unconstitutional and unlawful acts, omissions, policies, and conditions
19 described above;
- 20 iv) Retain jurisdiction of this case until Defendants have fully complied
21 with the orders of this Court, and there is a reasonable assurance that
22 Defendants will continue to comply in the future absent continuing
23 jurisdiction;
- 24 b) Award Plaintiff compensatory damages equal to the injury suffered by
25 Plaintiff due to Defendants' unconstitutional and discriminatory practices, in
26 an amount to be determined at trial;
- 27 c) Award punitive damages against Defendants in an amount sufficient to punish
28 them and deter future reprehensible conduct;

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- d) Award Plaintiff the expenses of maintaining this action, including reasonable attorneys’ fees pursuant to 42 U.S.C. § 1988 and other applicable law; and
- e) Award any other and further relief that the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury for all issues so triable.

Dated: February 4, 2014

Respectfully submitted,
KENDALL BRILL & KLIEGER LLP

By: 
 Bert H. Deixler
 Attorneys for Plaintiff
 Stephen Louis Rudisill

1 KENDALL BRILL & KIEGER LLP
Bert H. Deixler (SBN 70614)
2 *bdeixler@kbbkfirm.com*
Laura W. Brill (SBN 195889)
3 *lbrill@kbbkfirm.com*
Cassie D. Palmer (SBN 268383)
4 *cpalmer@kbbkfirm.com*
10100 Santa Monica Blvd., Suite 1725
5 Los Angeles, California 90067
Telephone: 310.556.2700
6 Facsimile: 310.556.2705

7 Attorneys for Plaintiff
STEPHEN LOUIS RUDISILL

8
9 **UNITED STATES DISTRICT COURT**
10 **DISTRICT OF ARIZONA**

12 STEPHEN LOUIS RUDISILL,

13 Plaintiff,

14 v.

15 JANICE BREWER, Governor of
Arizona; CHARLES RYAN, Director,
16 Arizona Department of Corrections;
ROBERT PATTON, Division Director
17 of Offender Operations, Arizona
Department of Corrections; THERESE
18 SCHROEDER, Warden, Arizona State
Prison Complex-Tucson; DANIAL
19 LUNDBERG, Deputy Warden, Arizona
State Prison Complex-Tucson, in their
20 official and individual capacities, AND
DOES 1-100, INCLUSIVE,

21 Defendants.
22

Case No. 4:13-cv-01149-CKJ-PSOT

[Cindy K. Jorgenson, Judge Presiding]

INDEX TO EXHIBIT NOS. 1-9
FIRST AMENDED PRISONER
CIVIL RIGHTS COMPLAINT FOR
VIOLATION FOR EQUAL
PROTECTION; 42 U.S.C. § 1983

Action filed: September 13, 2013

Exhibit No.	Date	Description	Pages
Exhibit 1	05/18/13	Letter of Director Ryan	18-23
Exhibit 2	05/18/13	Letter to Warden Schroeder	24-34
Exhibit 3	05/28/13	Inmate Response Letter from Deputy Warden Lundberg	35
Exhibit 4	06/04/14	Letter from Director Patton	36-37
Exhibit 5	06/07/14	Letter from Warden Schroeder	38-39
Exhibit 6	06/12/13	Informal Complaint	40
Exhibit 7	06/17/13	Letter to Governor Brewer	41-52
Exhibit 8	06/18/13	Response to Informal Inmate Complaint	53
Exhibit 9	06/19/13	Inmate Grievance	54

Dated: February 4, 2014

Respectfully submitted,

KENDALL BRILL & KLIEGER LLP

By: s/ Bert H. Deixler

Bert H. Deixler

Attorneys for Plaintiff

Stephen Louis Rudisill