

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
Tallahassee Division**

WILLIAM DEMLER, individually,
and on behalf of all others similarly situated,

Plaintiff,

vs.

Case No. 4:19-cv-00094-RH/GRJ

MARK S. INCH, in his official capacity as
Secretary of the Florida Department of
Corrections,

Defendant.

**PLAINTIFF’S MOTION FOR LEAVE TO FILE AN
AMENDMENT TO THE COMPLAINT AND PROPOSED AMENDMENT**

Plaintiff, by and through undersigned counsel, respectfully requests leave to file an amendment to the Complaint, ECF No. 1, and in support thereof states:

1. On February 10, 2020, the Court entered its Order Granting Leave to Amend the Complaint, Allowing Depositions, And Extending the Mediation Deadline, ECF No. 118 (“Order”).
2. Pursuant to the Order, Plaintiff is permitted to seek leave to add additional new named plaintiffs.
3. As such, Plaintiff is seeking leave to add Michael Gisi and Wayne Pula as additional new named plaintiffs, and requests that the amendment, attached hereto as Exhibit 1, be incorporated into the Complaint.

4. The additional allegations have been added as lettered subparagraphs to paragraphs 10 and 63. Plaintiff has elected to use this format in order to keep the paragraph numbers consistent with Defendant's Answer, ECF No. 42.

5. Plaintiff also seeks an amendment to the Complaint by interlineation with respect to the use of the term Plaintiff and the phrase Plaintiff, William Demler where they are used in conjunction with allegations that are not specific to Mr. Demler. Where either is used generally, and not in relation to allegations specific to Mr. Demler, Plaintiff requests that they be read as Plaintiffs (plural), and any grammatical issues be corrected accordingly.

6. Plaintiff further requests that Mr. Gisi and Mr. Pula be substituted for Mr. Demler as class representatives with respect to the outstanding request for class certification referenced in the Order.

Certificate of Counsel. Pursuant to Local Rule 7.1(B) of the Northern District of Florida, counsel for Plaintiff has conferred with counsel for Defendant, and Defendant's counsel has indicated that it has no objection to this Motion or the Proposed Amendment with the understanding that Defendant reserves all of the arguments raised in opposition to the original Motion to Amend Order Denying Class Certification, ECF No. 101, that have not been addressed by the Court, any arguments that contraindicate certification based upon the nuances of the newly named Plaintiffs, and all other objections noted in the Court's Order, ECF No. 118.

Certificate of Word Limit. Pursuant to N.D. Fla. Local Rule 7.1(F), this motion contains 300 words.

WHEREFORE, Plaintiff respectfully requests, for good cause shown, the Court to enter an Order incorporating the proposed amendment into the Complaint, amending the Complaint by interlineation, as described in paragraph 5, above, and revising Plaintiff's request for class certification, as described in paragraph 6, above.

Respectfully submitted,

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By: s/Shawn A. Heller
Shawn A. Heller, Esq.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system, on this 2nd day of March 2020, which will send a notice of electronic filing to all attorneys of record.

By: s/Shawn A. Heller
Shawn A. Heller, Esq.