

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

**CHARLES CONWAY, ANTONIO HUDSON,
JOSE RODRIGUEZ, and JEFFREY BROWN,**

Plaintiffs,

**Case No. 13-10271
Hon. Patrick J. Duggan
Magistrate: Paul J. Komives**

v.

DANIEL H. HEYNS, Director, Michigan
Department of Corrections, in his official
capacity, only;

DENNIS STRAUB, Correctional Facilities
Administration Deputy Director, Michigan
Department of Corrections, in his official
capacity, only;

BRAD PURVES, Michigan Department of
Corrections, Correctional Facilities
Administration, Food Service Program
Manager, in his official and individual
capacities;

LLOYD RAPELJE, Warden, Saginaw
Correctional Facility, in his official and
individual capacities;

DON SPAULDING, former Food Service
Director, Saginaw Correctional Facility,
in his individual capacity, only;

GLENN KUSEY, Food Service Director,
Saginaw Correctional Facility, in his
official and individual capacities;

MITCH PERRY, Warden, Newberry
Correctional Facility, in his official and
individual capacities;

JEFFREY LARSON, Warden, Central
Michigan Correctional Facility, in his
individual capacity, only;

TOM BURKETT, former Warden, Central
Michigan Correctional Facility, in his
individual capacity, only;

CATHERINE S. BAUMAN, Warden, Alger
Maximum Correctional Facility, in his
official and individual capacities;

RICCARDI, Food Service Director, Alger
Maximum Correctional Facility, in his
official and individual capacities;

Defendants.

**SECOND AMENDED COMPLAINT FOR DECLARATORY RELIEF, INJUNCTIVE RELIEF AND
DAMAGES AND RELIANCE ON JURY DEMAND**

Plaintiffs, **CHARLES CONWAY, ANTONIO HUDSON, JOSE RODRIGUEZ, and JEFFREY BROWN** (collectively "Plaintiffs"), by and through their undersigned counsel, file this Amended Complaint for Declaratory Relief, Injunctive Relief and Damages against Defendants **DANIEL H. HEYNS, DENNIS STRAUB, BRAD PURVES, LLOYD RAPELJE, DON SPAULDING, GLENN KUSEY, MITCH PERRY, JEFFREY LARSON, CATHERINE S. BAUMAN, and RICCARDI** (collectively "Defendants"), for religious discrimination in violation of the United States Constitution and the Religious Land Use and Institutionalized Persons Act of 2000 ("RLUIPA"), 42 U.S.C. Sec. 2000cc *et seq.*, pursuant to 28 U.S.C. § 1331, and state as follows:

Jurisdiction and Venue

1. This Court has original federal question jurisdiction over Plaintiffs' claims of violations of the United States Constitution and the Religious Land Use and Institutionalized Persons Act of 2000 ("RLUIPA"), 42 U.S.C. § 2000cc *et seq.*, pursuant to 28 U.S.C. § 1331.

2. This Court has federal question jurisdiction, pursuant to 28 U.S.C. § 1343 over Plaintiffs' claims regarding the deprivation under color of State law of rights secured by the First and Fourteenth Amendments to the Constitution of the United States and the laws of the United States.

3. This Court has personal jurisdiction over Defendants because Defendants reside and conduct business in the State of Michigan.

4. This Court has jurisdiction over Plaintiffs' constitutional claims pursuant to 42 U.S.C. § 1983.

5. Plaintiffs' claims for declaratory relief are sought under 28 U.S.C. §§ 2201 and 2202.

6. Plaintiffs seek permanent injunctive relief, pursuant to Rule 65 of the Federal Rules of Civil Procedure and 28 U.S.C. § 1343.

7. Plaintiffs' claims for attorneys' fees and costs are predicated upon 42 U.S.C. §§ 1988 and 2000cc-2(d), which authorize the award of attorneys' fees and costs to prevailing parties, pursuant to 42 U.S.C. § 1983 and RLUIPA.

8. Plaintiffs' claims for declaratory and injunctive relief are authorized by 28 U.S.C. §§ 2201 and 2202, by Rules 57 and 65 of the Federal Rules of Civil Procedure, and by the general, legal, and equitable powers of this Court.

9. Venue is proper under 42 U.S.C. § 1391 as to all Defendants because Defendants operate within the geographical boundaries of the State of Michigan, and the substantial part of the acts described herein occurred within this District.

Plaintiffs

10. Plaintiff Charles Conway is an individual, a male, a Muslim and an inmate at Saginaw Correctional Facility (Inmate No. 336827), and was at all relevant times considered a "person confined to an institution" as the term is defined in 42 U.S.C. § 2000cc *et seq.*

11. Plaintiff Antonio Hudson is an individual, a male, a Muslim and an inmate at Newberry Correctional Facility (Inmate No. 213154), and was at all relevant times considered a "person confined to an institution" as the term is defined in 42 U.S.C. § 2000cc *et seq.*

12. Plaintiff Jose Rodriguez is an individual, a male, a Muslim and an inmate at Parnall Correctional Facility (Inmate No. 695092), and was at all relevant times considered a "person confined to an institution" as the term is defined in 42 U.S.C. § 2000cc *et seq.*

13. Plaintiff Jeffrey Brown is an individual, a male, a Muslim and an inmate at Alger Maximum Correctional Facility (Inmate No. 362446), and was at all relevant times considered a “person confined to an institution” as the term is defined in 42 U.S.C. § 2000cc *et seq.*

Defendants Sued in Official Capacity, Only

14. Upon information and belief, Defendant Daniel H. Heynes is Director of the Michigan Department of Corrections. Defendant Heynes is the ultimate decision-maker with authority to approve all Michigan Department of Corrections policies, including its dietary policies for each of the correctional facilities referenced in this Amended Complaint. Defendant Heynes is being sued in his official capacity, only.

15. Upon information and belief, Defendant Dennis Straub is the Correctional Facilities Administration (“CFA”) Deputy Director of the Michigan Department of Corrections. Defendant Straub is a decision-maker with authority to approve all Michigan Department of Corrections policies concerning the operation of all correctional institutions operated by the Michigan Department of Corrections and the Operations Division, which includes the Food Service Section. Defendant Straub is being sued in his official capacity, only.

Defendants Sued in Individual Capacity, Only

16. Upon information and belief, Defendant Don Spaulding is the former Food Service Director at Saginaw Correctional Facility who had supervisory authority and control over food service at the facility during the time of Plaintiff Conway’s confinement at Saginaw Correctional Facility. Defendant Spaulding personally engaged in discriminatory behavior against Plaintiff Conway. Defendant Spaulding is being sued in his individual capacity, only.

17. Upon information and belief, Defendant Tom Burkett is the former Warden of Central Michigan Correctional Facility who is a former decision-maker and possessed authority to approve all policies concerning Central Michigan Correctional Facility during the time of Plaintiff Hudson’s confinement at the facility. Defendant former Warden Burkett personally engaged in discriminatory

behavior against Plaintiff Hudson. Defendant former Warden Burkett is being sued in his individual capacity, only.

18. Upon information and belief, Defendant Jeffrey Larson is the Warden of Central Michigan Correctional Facility who is a decision-maker and possessed authority to approve all policies concerning Central Michigan Correctional Facility during the time of Plaintiff Rodriguez' confinement at the facility. Defendant Warden Larson personally engaged in discriminatory behavior against Plaintiff Rodriguez. Defendant Larson is being sued in his individual capacity, only.

Defendants Sued in Both Official and Individual Capacities

19. Upon information and belief, Defendant Brad Purves is the Food Service Program Manager at the Correctional Facilities Administration ("CFA") of the Michigan Department of Corrections. Defendant Purves is a decision-maker and possesses authority to approve Michigan Department of Corrections policies concerning food service at all correctional institutions operated by the Michigan Department of Corrections. Defendant Purves is being sued in both his official and individual capacities.

20. Upon information and belief, Defendant Lloyd Rapelje is the Warden of Saginaw Correctional Facility who is a decision-maker and possesses authority to approve all policies concerning Saginaw Correctional Facility during the time of Plaintiff Conway's and Plaintiff Rodriguez' confinement at the facility. Defendant Rapelje personally engaged in discriminatory behavior against Plaintiff Conway and Plaintiff Rodriguez. Defendant Rapelje is being sued in both his official and individual capacities.

21. Upon information and belief, Defendant Glenn Kusey is the current Food Service Director at Saginaw Correctional Facility who had supervisory authority and control over food service at the facility during the time of Plaintiff Conway's and Plaintiff Rodriguez' confinement at Saginaw Correctional Facility. Defendant Kusey personally engaged in discriminatory behavior

against Plaintiff Conway and Plaintiff Rodriguez. Defendant Kusey is being sued in both his official and individual capacities.

22. Upon information and belief, Defendant Mitch Perry is the Warden of Newberry Correctional Facility who is a decision-maker and possesses authority to approve all policies concerning Newberry Correctional Facility during the time of Plaintiff Hudson's confinement at the facility. Defendant Warden Perry personally engaged in discriminatory behavior against Plaintiff Hudson. Defendant Warden Perry is being sued in both his official and individual capacities.

23. Upon information and belief, Defendant Catherin S. Bauman is the Warden of Alger Maximum Correctional Facility who is a decision-maker and possesses authority to approve all policies concerning Alger Maximum Correctional Facility during the time of Plaintiff Brown's confinement at the facility. Defendant Warden Bauman personally engaged in discriminatory behavior against Plaintiff Brown. Defendant Warden Bauman is being sued in both her official and individual capacities.

24. Upon information and belief, Riccardi is the Food Service Director at Alger Maximum Correctional Facility who had supervisory authority and control over food service at the facility during the time of Plaintiff Brown's confinement at Alger Maximum Correctional Facility. Riccardi personally engaged in discriminatory behavior against Plaintiff Brown. Riccardi is being sued in both his official and individual capacities.

Nature of this Action

25. This is an action for declaratory and injunctive relief arising under the First, Eighth and Fourteenth Amendments to the Constitution of the United States, the Religious Land Use and Institutionalized Persons Act of 2000 ("RLUIPA"), and 42 U.S.C. § 1983. Plaintiffs seeks costs and attorneys' fees under 42 U.S.C. § 1988.

26. Upon information and belief, Saginaw Correctional Facility, Newberry Correctional Facility, Central Michigan Correctional Facility, and Alger Maximum Correctional Facility are each an “institution” within the meaning of 42 U.S.C. § 2000cc-1(a) and 42 U.S.C. § 1997.

27. Defendants have not identified any compelling government interest for denying Plaintiffs’ requests for a diet that satisfies nutritional and caloric requirements during the month of Ramadan.¹

28. Defendants have not identified any compelling government interest for denying Plaintiffs’ requests for a halal food diet.²

29. Defendants have failed to enforce the applicable laws, policies, directives, ordinances, and regulations in the least restrictive means possible.

30. Defendants have unlawfully imposed a dietary policy that substantially burdens the rights of Plaintiffs to the free exercise of religion by means that are not the least restrictive means available to the correctional facilities to protect their asserted governmental interest.

31. Defendants have imposed regulations that unreasonably limit religious exercise, discriminated against Plaintiffs on the basis of religious denomination, and treated Plaintiffs on less than equal terms with other religious and non-religious similarly-situated persons.

Denial of a Proper Caloric Intake During the Month of Ramadan (“Ramadan Policy”)

32. Upon information and belief, under Policy Directive 04.07.100 “Offender Meals,” all menus and meals at correctional facilities require a balanced nutritional diet containing between 2600 and 2900 calories on any given day.

¹ As discussed further in Paragraphs 48-49, Ramadan is the ninth month of the Islamic Calendar. Muslims worldwide observe Ramadan as a month of fasting. This annual observance is regarded as one of the Five Pillars of Islam. Among other things, while fasting from dawn until sunset, Muslims refrain from consuming food, drinking liquids, smoking and sexual relations.

² Halal is a term designating an object or an action which is permissible to use or engage in, according to Islamic teachings. The term is used to designate food seen as permissible according to Islamic teachings.

33. Upon information and belief, during Ramadan, Muslim inmates who observe the fast do not receive a balanced nutritional diet containing between 2600 and 2900 calories on any given day during Ramadan. (This policy will hereinafter be referred to as the “Ramadan Policy.”)

34. Upon information and belief, other inmates receive between 2600 and 2900 calories and a balanced nutritional diet on any given day.

35. Pursuant to Policy Directive 05.03.150 “Religious Beliefs and Practices of Prisoners,” “the CFA or FOA Deputy Director or designee may authorize the development of a separate menu to meet the necessary religious dietary restrictions of a prisoner. Such menus shall meet the minimum nutritional standards set forth in PD 04.07.100 ‘Offender Meals’. The appropriate Deputy Director or designee shall have final approval of such menus and shall determine at which facilities the meals will be offered.” Michigan Department of Corrections, Policy Directive 05.03.150 at para. QQ.

36. Pursuant to the same Policy Directive, “[o]nce the [religious] meals are provided, the prisoner shall not be allowed to eat from the regular menu.” *Id.* at para. TT.

37. On June 25, 2012, Defendant Purves issued a memorandum to wardens of all Michigan Department of Corrections facilities (the “Memorandum”).

38. The Memorandum read in relevant part:

Ramadan is going to commence on July 20, 2012 at 4:41 a.m. and end on August 14, 2012 at 8:35 p.m. All facilities will follow the State Wide Standard Ramadan Menu or State Wide Standard Ramadan Bagged Cold meal menu depending on the option your facility chooses below. Due to the difficult time parameters surrounding Ramadan this year, facilities will be given the option to choose from one of the four(4) options to deliver these meals.

Options:

- 1- Serve both meals from the dining room. Follow the current posted State Wide Standard Menu. (“Option 1”)
- 2- Serve a bag Breakfast and serve the dinner meal from the dining room- use the State Wide Standard Ramadan Menu. See attached [sic] (“Option 2”)

- 3- Serve a bag Breakfast. Serve and deliver the dinner meal via serving/tray seg trays- follow the State Wide Standard Ramadan Menu. See attached. ("Option 3")
- 4- Serve a bag Breakfast and bag Dinner. Follow the State Wide Standard Ramadan Cold menu. ("Option 4") See attached.

39. Attached to the Memorandum was a "Ramadan Bagged Meal" Menu. The Memorandum is referenced as an Exhibit to this Amended Complaint.

40. Upon information and belief, the daily caloric intake on the "Ramadan Bagged Meal" Menu ranges from approximately 1,100 calories to approximately 1,400 calories, depending on the day, and substantially below what is required under Policy Directive 04.07.100 "Offender Meals," where all menus and meals at correctional facilities are to contain a balanced nutritional diet containing between 2600 and 2900 calories on any given day.

41. The nutritional and caloric intake of the Ramadan Bagged Meal menu is approximately less than half the amount of calories that other inmates receive on any given day.

42. Upon adopting Islam, Plaintiffs began observing the Ramadan fast, in accordance with their sincerely-held religious belief that fasting the month of Ramadan is a religious obligation which is compulsory on all healthy adult Muslims.

43. During the month of Ramadan, Muslims fast from sunrise to sundown by, among other things, abstaining from eating and drinking. Muslims believe Ramadan is a time for spiritual reflection, self-improvement, and increased devotion and worship.

44. During the month of Ramadan, Muslims are permitted to eat and drink from sundown to sunrise.

45. In order to ensure that Plaintiffs receive their meals before sunrise and after sundown, Plaintiffs, along with other Muslim inmates, submitted a written request to eat from the religious Ramadan menu. See Michigan Department of Corrections, Policy Directive 05.03.150 at para. SS.

46. Each of Plaintiffs' requests to eat from the Religious Ramadan menu was approved.

47. However, by requesting to eat from the religious Ramadan menu, Plaintiffs, along with other Muslim inmates, are forced to sacrifice a proper nutritional and caloric diet.

48. Upon information and belief, other inmates on religious diets, menus or meal plans are not forced to consume such a significantly reduced number of calories or sacrifice a proper nutritional diet.

49. The Michigan Department of Corrections Ramadan Policy imposes a substantial burden upon the rights of Plaintiffs and other Muslim inmates to the free exercise of religion, and discriminates, and continues to discriminate, against Plaintiffs on the basis of religion or religious denomination in violation of, among other laws, RLUIPA. 42 U.S.C. § 2000cc(b)(2).

50. The Michigan Department of Corrections is capable of providing Plaintiffs with a proper caloric and nutritional diet because it provides other inmates at its facilities with a proper caloric and nutritional diet.

51. The Ramadan Policy subjects Plaintiffs and other Muslim inmates with a religious basis for participating in the Ramadan fast to disparate treatment and cruel and unusual punishment by denying them a proper nutritional and caloric diet on a daily basis.

52. The substantial burden that the Ramadan Policy imposes on these prisoners is not necessary, or the least restrictive means, to achieve any compelling state interest.

Denial of a Halal Food Diet

53. Upon adopting Islam, Plaintiffs started eating a halal diet in accordance with their sincerely-held religious belief that keeping a halal diet is part of their religious obligation.

54. The halal food diet is a diet that is in accordance with Islamic teachings. Islamic teachings specify both what types of foods are permitted to be eaten, as well as how the food must be prepared.

55. Under the halal food diet, pork and pork-based food products are expressly forbidden, in addition to all meat that is not slaughtered and prepared in accordance with Islamic law.

56. Since Plaintiffs' confinement began at their respective correctional facilities, Defendants have refused to provide Plaintiffs with a halal diet despite repeated requests.

57. Michigan Department of Corrections dietary policies force prisoners with a religious basis for consuming a halal diet to choose between violating their core religious beliefs or receiving a proper caloric and nutritional diet on a daily basis.

58. During the month of Ramadan, because Plaintiffs and other Muslim inmates are provided an unreasonably low caloric diet pursuant to the Ramadan Policy, Plaintiffs have all been forced to violate their sincerely-held religious beliefs by eating foods that violate the restrictions of the halal food diet, including pork-based food products and meat that has not been prepared in accordance with Islamic law, on a daily basis in order to sustain themselves.

59. The Michigan Department of Corrections dietary policy imposes a substantial burden upon the rights of Plaintiffs to the free exercise of religion, and discriminates, and continues to discriminate, against Plaintiffs on the basis of religion or religious denomination in violation of RLUIPA. 42 U.S.C. § 2000cc(b)(2).

60. The substantial burden that Michigan Department of Corrections dietary policies imposed on these prisoners is not necessary to achieve any compelling state interest.

61. The Michigan Department of Corrections is capable of providing Plaintiffs with a halal diet because it provides prisoners of other faiths a religious diet.

62. For example, pursuant to Operating Procedure 05.03.150A, "Kosher Meal Program," the "Kosher Meal Program is available to prisoners whose religious beliefs have been determined to require a Kosher diet." Michigan Department of Corrections, Operating Procedure 05.03.150A at para. A.

63. Several correctional facilities, including Alger Maximum Correctional Facility and Newberry Correctional Facility, are “authorized to provide Kosher meals to prisoners.” *Id.* at para. B, Attachment A.

Plaintiff Charles Conway

64. Upon information and belief, Saginaw Correctional Facility, where Plaintiff Conway is currently confined, chose to implement the Option 4 Ramadan menu, which provides that meals should be served to Muslim inmates through bag breakfasts and bag dinners.

65. In accordance with exercising the Option 4 Ramadan menu, that facility prohibits Muslim inmates, including Plaintiff Conway, from eating at the main line where other inmates receive their meals.

66. Accordingly, Plaintiff Conway and other Muslim inmates at that facility, are dependent upon the facility to provide them with food.

67. As shown above, upon information and belief, the meals provided to Muslim inmates during Ramadan do not meet the requirements that all inmates receive a balanced nutritional diet containing between 2600 and 2900 calories on any given day during Ramadan.

68. Moreover, the meals Plaintiff Conway receives are “cold meals” whereas other inmates at the same facility are receiving “hot meals.”

69. In addition to receiving meals that are below caloric and nutritional standards, oftentimes during the month of Ramadan, Plaintiff Conway’s bag breakfast is brought after sunrise and accordingly Plaintiff Conway is unable to eat the meal so as not to violate their sincerely-held religious belief that requires him to fast from sunrise to sunset during the month of Ramadan.

70. Plaintiff Conway wrote a letter to Defendant Spaulding, former Food Service Director at Saginaw Correctional Facility, where he inquired regarding the number of calories he is receiving

as opposed to the number of calories other inmates are receiving, stating “what is the caloric intake of them bags you feeding us because it is not enough food for one full day.”

71. On August 15, 2011, Defendant Spaulding, responded that “[t]he main line menu allows for 2600 k-calories daily which has been reviewed and certified by register dietitians. This means we are meeting your daily needs as long as we follow the menu, which we do. As far as participating in Ramadan this is done in accordance with your religious tennants [sic]. The meals provided are adequate for this.”

72. On September 6, 2011, Plaintiff Conway filed a grievance regarding being denied a proper caloric intake during the month of Ramadan.

73. On September 19, 2011, Defendant Kusey, current Food Service Director at Saginaw Correctional Facility, denied Plaintiff Conway’s grievance stating that “[f]ood service is following the menu provided by MDOC Central Office Food program manager.”

74. On September 30, 2011, Plaintiff Conway filed an appeal claiming that “the caloric intake of the meals provided during the month of Ramadan were not equal to the caloric intake provided the rest of the population.”

75. On October 20, 2011, Defendant Warden Rapelje responded that “no policy or procedure violation have [sic] been shown,” and denied Plaintiff Conway’s appeal.

76. Plaintiff Conway again filed an appeal stating that “[t]he apprx. 1200 calories or so per day, that was given to inmates adhering to ramadan [sic] was not equal to the apprx. 2600 calories that was allowed for inmates who were not on ramadan.”

77. On January 11, 2012, Plaintiff Conway’s appeal was denied on the basis that “there is no additional information or basis found for relief at Step III.”

78. Plaintiff has exhausted his administrative remedies.

Plaintiff Antonio Hudson

79. Upon information and belief, Newberry Correctional Facility, where Plaintiff Hudson is confined and was recently transferred, chose to implement the Option 4 Ramadan menu in previous years, which provides that meals should be served to Muslim inmates through bag breakfasts and bag dinners.

80. In accordance with exercising the Option 4 Ramadan menu, that facility prohibits Muslim inmates from eating at the main line where other inmates receive their meals.

81. Accordingly, Plaintiff Hudson and other Muslim inmates at that facility, are dependent upon the facility to provide them with their food during the upcoming month of Ramadan.

82. As shown above, upon information and belief, the meals provided to Muslim inmates during Ramadan do not meet the requirements that all inmates receive a balanced nutritional diet containing between 2600 and 2900 calories on any given day during Ramadan.

83. Moreover, the meals Plaintiff Hudson receives are “cold meals” whereas other inmates at the same facility are receiving “hot meals.”

84. In addition to receiving meals that are below caloric and nutritional standards, oftentimes during the month of Ramadan, at each of the correctional facilities where Plaintiff Hudson was previously confined, Plaintiff Hudson’s bag breakfast was brought after sunrise and accordingly Plaintiff Hudson was unable to eat the meal so as not to violate their sincerely-held religious belief that requires him to fast from sunrise to sunset during the month of Ramadan.

85. On July 23, 2012, while Plaintiff Hudson was confined in Central Michigan Correctional Facility, Plaintiff Hudson filed a grievance stating that “[t]he month RAMADAN IS in procees [sic], my constitutional rights to be feed [sic] the proper caloric/protien [sic] intake... I was told that I was to receive only two meals.”

86. On August 9, 2012, J. Crosby denied Plaintiff Hudson’s grievance stating that “[t]he Regional Food service Director said that we are following policy because we are allowing them to fast

and fasting is primarily the act of willingly abstaining from some or all food, drink or both for a period of time. In this case the Ramadan Fast is a matter of personal choice where no food or drink is permitted between dawn and sunset according to Islamic teachings, and such results in not receiving the Lunch meal.”

87. On August 17, 2012, Plaintiff Hudson filed an appeal claiming that the policy violated their rights to “be feed [sic] the proper caloric/protein intake while practicing [his] constitutional religious rights of FASTING in the month of RAMADAN.”

88. On September 6, 2012, Defendant former Warden Burkett denied Plaintiff Hudson’s appeal, stating that “[f]urther investigation reveals that Grievant’s concerns were thoroughly addressed at the Step I level... Lacking any evidence of a policy or procedural violations.”

89. Plaintiff Hudson filed an appeal stating that “[t]he Warden/Birkett [sic] should have made J. Crosby follow the menu guidelines to provide me with the protien [sic] to meet the nutritional and caloric standards... this was a violation to my constituional [sic] rights by not serving me the protien [sic] of the daily recommendation as persecution for choosing to fast as a muslim [sic].”

90. Plaintiff’s Hudson’s appeal was again denied.

91. Plaintiff Hudson has exhausted his administrative remedies.

Plaintiff Jose Rodriguez

92. Upon information and belief, Parnall Correctional Facility, where Plaintiff Rodriguez is confined and recently transferred, chose to implement the Option 4 Ramadan menu in previous years, which provides that meals should be served to Muslim inmates through bag breakfasts and bag dinners.

93. Upon information and belief, Central Michigan Correctional Facility, where Plaintiff Rodriguez was recently confined and transferred from, also chose to implement the Option 4

Ramadan menu in previous years, which provides that meals should be served to Muslim inmates through bag breakfasts and bag dinners.

94. In accordance with exercising the Option 4 Ramadan menu, these facilities prohibit Muslim inmates from eating at the main line where other inmates receive their meals.

95. Moreover, the meals Plaintiff Rodriguez receives are “cold meals” whereas other inmates at the same facility are receiving “hot meals.”

96. Accordingly, Plaintiff Rodriguez and other Muslim inmates at that facility, are dependent upon the facility to provide them with their food during the upcoming month of Ramadan.

97. As shown above, upon information and belief, the meals provided to Muslim inmates during Ramadan do not meet the requirements that all inmates receive a balanced nutritional diet containing between 2600 and 2900 calories on any given day during Ramadan.

98. On August 1, 2012, while Plaintiff Rodriguez was confined at Saginaw Correctional Facility, Plaintiff Rodriguez wrote a letter to Defendant Warden Rapelje stating “I am kiting to find out why the Ramadan bags are below the daily calorie intake mandated by policy and the U.S.D.A., because the lack of daily calorie intake is a burden on my Free Exercise of my Religion.”

99. In its response to Plaintiff Rodriguez’ letter, on August 7, 2012, Defendant Warden Rapelje’s office attached a memorandum by Defendant Kusey that “the Ramadan Fast is a matter of personal choice where no food or drink is permitted between dawn and sunset according to Islamic teachings, and such results in not receiving the lunch meal.”

100. On August 13, 2012, Plaintiff Rodriguez filed a grievance stating that “[t]hroughout the month of Ramadan the M.D.O.C. Food Service did not provide inmates on Ramadan with the proper daily caloric and nutritional value mandated by the U.S.D.A dietary guidelines. Food service... violated and infringed upon my recognized Const. right to freely exercise my 1st Amend [sic] right of religion.”

101. On August 24, 2012, Defendant Kusey denied Plaintiff Rodriguez’ grievance.

102. On September 12, 2012, Plaintiff Rodriguez filed an appeal stating that “‘Fast’ under Islam, as stated in the Holy Qur’an (Surah 2) clearly does not limit ones [sic] daily caloric intake. The Qur’an only mandates the abstaining of food during the daylight hours. Outside the daylight hours, one on Ramadan could consume the MDOC allotted 2600-2900 calories per day if it were provided.”

103. On September 20, 2012, Defendant Warden Rapelje denied Plaintiff Rodriguez’ appeal stating that “Grievant chose to freely exercise their religious freedom by participating in Ramadan. Part of that choice was to forgo their noon meal as it is served during daily hours. The meals he was served at sundown and sun-up did meet the caloric and nutritional standard for those two meals. His daily requirements would have been lacking due to their decision to participate in the fast. Grievant freely made a choice which had consequences. No relief is warranted.” Emphasis supplied.

104. Plaintiff Rodriguez filed an appeal, which was also denied on January 29, 2013.

105. Plaintiff Rodriguez has exhausted his administrative remedies.

Plaintiff Jeffrey Brown

106. Upon information and belief, Alger Maximum Correctional Facility, where Plaintiff Brown is confined, chose to implement the Option 3 Ramadan menu, which provides that meals should be served to Muslim inmates through bag breakfasts and “seg trays” for dinner.

107. Upon information and belief, “seg” is a reference to the term “segregation.”

108. In accordance with exercising the Option 3 Ramadan menu, that facility prohibits Muslim inmates in segregation, including Plaintiff Brown, from eating at the main line where other inmates receive their meals.

109. Accordingly, Plaintiff Brown and other Muslim inmates at that facility in segregation, are dependent upon the facility to provide them with their food.

110. As shown above, upon information and belief, the meals provided to Muslim inmates during Ramadan do not meet the requirements that all inmates receive a balanced nutritional diet containing between 2600 and 2900 calories on any given day during Ramadan.

111. Moreover, the meals Plaintiff Brown receives are “cold meals” whereas other inmates at the same facility are receiving “hot meals.”

112. In addition to receiving meals that are below caloric and nutritional standards, often times during the month of Ramadan, Plaintiff Brown’s bag breakfast was brought after sunrise and accordingly Plaintiff Brown was unable to eat the meal so as not to violate their sincerely-held religious belief that requires him to fast from sunrise to sunset during the month of Ramadan.

113. During the month of Ramadan, on almost a daily basis, Plaintiff Brown’s bag breakfast was also missing a number of food items, further reducing their daily caloric and nutritional intake even more.

114. Plaintiff Brown wrote several letters to the Chaplain, Defendant Riccardi, and Defendant Warden Bauman that requested that the repeated issue of missing food items in their bag breakfast be resolved, including on July 21, 2012; July 25, 2012; and July 30, 2012.

115. However, no action was taken to resolve the issue of missing food items.

116. On July 26, 2012, Plaintiff Brown filed a grievance stating that “[their] sincerely held religious beliefs are being violated along with [their] rights to... equal protection, and to be free from cruel/unusual punishment because the breakfast meals are late and/or missing items and because the lunch meals are not being made up in to the breakfast or dinner. Muslims simply fast from [sunrise] to [sundown] and in between those two times we eat normal daily intake.”

117. Plaintiff Brown’s grievance was not assigned a number, nor did Plaintiff Brown receive a response to this grievance.

118. Upon information and belief, Defendants Riccardi and Warden Bauman's failure to take action, and Defendants' actions, or lack thereof, in failing to assign Plaintiff Brown's grievance a number or respond to Plaintiff Brown's grievance constitutes a denial of Plaintiff Brown's grievance.

119. Accordingly, Plaintiff Brown has exhausted his administrative remedies.

Count I
Preliminary Injunction and/or Permanent Injunction

120. Plaintiffs hereby reallege and incorporate by reference the foregoing paragraphs of this Amended Complaint as if fully set forth herein.

121. Defendants' Ramadan Policy, whereby Defendants do not provide Plaintiffs with a balanced nutritional diet containing between 2600 and 2900 calories on any given day during Ramadan, caused and continues to cause Plaintiffs harm because it forces them to choose, on a daily basis, between violating their core religious beliefs (that first requires them to fast during the month of Ramadan; and second, requires them to abstain from foods that violate their religious tenets) and waiving their right to receiving a menu that meets minimum nutritional standards.

122. Defendants' Ramadan Policy, denial of a halal food diet and above-mentioned unlawful actions caused and continues to cause Plaintiffs harm because it forces them to choose, on a daily basis, between violating their core religious beliefs (that first requires them to fast during the month of Ramadan; and second, requires them to abstain from foods that violate their religious tenets) and waiving their right to receiving a menu that meets minimum nutritional standards.

123. Ramadan is currently scheduled to commence on July 9, 2013.

124. Upon information and belief, it is unlikely that this case will be resolved before Ramadan.

125. Plaintiffs are entitled to a declaration, pursuant to the First and Fourteenth Amendments to the Constitution of the United States, the Religious Land Use and Institutionalized Persons Act of 2000 ("RLUIPA") and 42 U.S.C. § 1983 that:

- a. Defendants' policies, practices, and customs violate the First and Fourteenth Amendments to the Constitution of the United States, the Religious Land Use and Institutionalized Persons Act of 2000 ("RLUIPA"), and 42 U.S.C. § 1983;
- b. Defendants' denial of a balanced nutritional diet containing between 2600 and 2900 calories on any given day during Ramadan, and a halal food diet, constitutes a violation of the First Amendment to the United States Constitution and creates a chilling effect on Plaintiffs' free exercise of religion;
- c. Defendants' denial of Plaintiffs' request for a balanced nutritional diet containing between 2600 and 2900 calories on any given day during Ramadan, and a halal food diet is a substantial burden to the free exercise of Plaintiffs' religion and is not justified by a compelling government interest;
- d. The Ramadan Policy and the halal food dietary policy, as applied to Plaintiffs, treats these prisoners on less than equal terms with other religious and non-religious prisoners in Michigan Department of Corrections facilities; and,
- e. Defendants' unique application of the Ramadan Policy to Plaintiffs, and other Muslim inmates similarly-situated, treats Muslim prisoners on less than equal terms with other religious and non-religious prisoners, thereby creating a denominational preference against Islam as a religion.

126. Plaintiffs are entitled to issuance of a preliminary and permanent injunction pursuant to the First and Fourteenth Amendments to the Constitution of the United States, the Religious Land Use and Institutionalized Persons Act of 2000 ("RLUIPA"), and 42 U.S.C. § 1983:

- a. Enjoining Defendants from denying Plaintiffs, and other Muslim inmates similarly-situated, a balanced nutritional diet containing between 2600 and 2900 calories on any given day during Ramadan, because Defendants' denial of the proper caloric and nutritional diet forces Plaintiffs, who have a religious basis for fasting during the month of

Ramadan, to choose, on a daily basis, between violating their core religious beliefs (ie: fasting during the month of Ramadan) and receiving a menu that meets minimum nutritional standards and fasting during the month of Ramadan.

b. Enjoining Defendants from denying Plaintiffs, and other Muslim inmates similarly-situated, a halal food diet because Defendants' denial of the halal food diet forces Plaintiffs, who have a religious basis for consuming a halal diet, to choose, on a daily basis, between violating their core religious beliefs that require them to abstain from foods that violate their religious tenets and waiving their right to receiving a menu that meets minimum nutritional standards.

c. Requiring Defendants to remedy the constitutional and statutory violations identified above, including, but not limited to, eliminating any existing policy whereby Plaintiff, and other Muslim inmates similarly-situated, are denied a balanced nutritional diet containing between 2600 and 2900 calories on any given day during Ramadan and a halal food diet.

127. In the absence of injunctive relief, Plaintiffs, and other Muslim inmates similarly-situated, will continue to suffer irreparable harm.

128. The substantial burden that Michigan Department of Corrections Ramadan policies impose on Plaintiffs and other Muslim prisoners is not necessary, or the least restrictive means, to achieve any compelling state interest.

129. The issuance of an injunction is not likely to cause substantial harm to others because Defendants are capable of providing these prisoners, and other Muslim inmates similarly-situated, with a balanced nutritional diet containing between 2600 and 2900 calories on any given day during Ramadan and a halal food diet as they are already providing other prisoners a proper caloric and nutritional diet in addition to a religious diet, including but not limited to, a Kosher diet.

130. Plaintiffs have a strong likelihood of success on the merits.

131. Plaintiffs do not have an adequate remedy at law.

132. The public interest would be served by the issuance of an injunction.

WHEREFORE, Plaintiffs request this Honorable Court grant declaratory relief and injunctive relief barring Defendants from engaging in further unconstitutional practices in prohibiting Plaintiffs and other Muslim prisoners from receiving a balanced nutritional diet containing between 2600 and 2900 calories on any given day during Ramadan, and providing them with a halal food diet. Further, Plaintiffs request all such other relief this Court deems just and proper including costs and attorneys' fees incurred in this action.

Count II
Violation of Religious Land Use and Institutionalized Persons Act
(Religious Exercise)

133. Plaintiffs hereby reallege and incorporate by reference the foregoing paragraphs of this Amended Complaint as if fully set forth herein.

134. Defendants' Ramadan Policy, whereby Defendants do not provide Plaintiffs with a balanced nutritional diet containing between 2600 and 2900 calories on any given day in Ramadan chill Plaintiffs' right to free exercise of religion.

135. Defendants' Ramadan Policy, denial of halal food policy and above-mentioned unlawful actions chill Plaintiffs' right to free exercise of religion.

136. Defendants have deprived and continue to deprive Plaintiffs of their right to the free exercise of religion as secured by the Religious Land Use and Institutionalized Persons Act of 2000, 42 U.S.C. § 2000cc(a) et seq., by both imposing and implementing an unconstitutional and discriminatory Ramadan Policy and denying a halal food diet that substantially burden Plaintiffs' religious exercise.

137. Defendants' Ramadan Policy and denial of a halal food diet, in addition to the above-mentioned unlawful actions caused and continues to cause Plaintiffs harm because it forces them to choose, on a daily basis between violating their core religious beliefs (that first requires them to fast

during the month of Ramadan; and second, requires them to abstain from foods that violate their religious tenets) and waiving their right to receiving a menu that meets minimum nutritional standards.

138. Defendants have arbitrarily and unjustly established a Ramadan Policy requiring Muslim inmates to receive meals that do not provide a balanced nutritional diet containing between 2600 and 2900 calories on any given day during Ramadan.

139. Defendants have not established a dietary policy requiring inmates of other faiths participating in religious diets to receive meals that do not meet minimum nutritional standards.

140. The restrictions imposed on Plaintiffs and other Muslim inmates have substantially burdened their religious exercise.

141. By imposing and implementing the above-described Ramadan Policy and denying a halal food diet to Muslim inmates, Defendants have imposed a substantial burden on Plaintiffs' exercise of Islam within the correctional facilities.

142. Imposition of such a burden is not in furtherance of a compelling government interest and is not the least restrictive means of furthering any governmental interest, compelling or otherwise.

143. Plaintiffs are entitled to a declaration that the Ramadan Policy and denial of the halal food diet is a substantial burden to the free exercise of Plaintiffs' religion, is not justified by a compelling government interest, and is in violation of RLUIPA.

144. Ramadan is currently scheduled to commence July 9, 2013.

145. Upon information and belief, it is unlikely that this case will be resolved before Ramadan.

146. Plaintiffs are entitled to issuance of a preliminary and permanent injunction granting the relief described in Paragraph 131.

147. Defendants' unlawful actions caused Plaintiffs harm and Plaintiffs are entitled to injunctive and declaratory relief, as well as compensatory and punitive damages, in addition to all such other relief this Court deems just and proper including costs and attorneys' fees in this action.

WHEREFORE, Plaintiffs request this Honorable Court grant declaratory relief and injunctive relief barring Defendants from engaging in further unconstitutional practices in prohibiting Plaintiffs and other Muslim prisoners from receiving a balanced nutritional diet containing between 2600 and 2900 calories on any given day during Ramadan, and providing them with a halal food diet. Further, Plaintiffs request all such other relief this Court deems just and proper including costs and attorneys' fees incurred in this action.

Count III
Violation of Religious Land Use and Institutionalized Persons Act
(Discrimination on the Basis of Religion)

148. Plaintiffs hereby reallege and incorporate by reference the foregoing paragraphs of this Amended Complaint as if fully set forth herein.

149. The Ramadan Policy and denial of halal food diet treats these prisoners on less than equal terms with other religious and non-religious prisoners in Michigan Department of Corrections facilities.

150. Defendants' Ramadan Policy and denial of a halal food diet, in addition to the above-mentioned unlawful actions caused and continues to cause Plaintiffs harm because it forces them to choose, on a daily basis between violating their core religious beliefs (that first requires them to fast during the month of Ramadan; and second, requires them to abstain from foods that violate their religious tenets) and waiving their right to receiving a menu that meets minimum nutritional standards.

151. Defendants have deprived and continue to deprive Plaintiffs of their right to be free from religious discrimination as secured by the Religious Land Use and Institutionalized Persons Act

of 2000, 42 U.S.C. § 2000cc(a) et seq., by imposing and implementing a Ramadan Policy and denying a halal food diet in a manner that discriminates on the basis of religion.

152. Defendants have imposed onerous restrictions on Plaintiffs that have not been imposed on prisoners of other faiths at Michigan Department of Corrections facilities.

153. Defendants have arbitrarily and unjustly established a Ramadan Policy requiring Muslim inmates to receive meals that do not meet minimum nutritional standards during the month of Ramadan.

154. Defendants have not established a dietary policy requiring inmates of other faiths participating in religious diets to receive meals that do not meet minimum nutritional standards.

155. Plaintiffs are entitled to a declaration that the Ramadan Policy and denial of the halal food diet constitutes discrimination on the basis of Plaintiffs' religion, is not justified by a compelling government interest, and is in violation of RLUIPA.

156. Ramadan is currently scheduled to commence July 9, 2013.

157. Upon information and belief, it is unlikely that this case will be resolved before Ramadan.

158. Plaintiffs are entitled to issuance of a preliminary and permanent injunction granting the relief described in Paragraph 131.

159. Plaintiffs are entitled to issuance of a preliminary and permanent injunction enjoining Defendants from denying Plaintiffs a proper caloric and nutritional diet and a halal food diet.

160. Defendants' unlawful actions caused Plaintiffs harm and Plaintiffs are entitled to injunctive and declaratory relief, compensatory and punitive damages, in addition to all such other relief this Court deems just and proper including costs and attorneys' fees in this action.

WHEREFORE, Plaintiffs request this Honorable Court grant declaratory relief and injunctive relief barring Defendants from engaging in further unconstitutional practices in prohibiting Plaintiffs and other Muslim prisoners from receiving a balanced nutritional diet containing between 2600 and

2900 calories on any given day during Ramadan, and providing them with a halal food diet. Further, Plaintiffs request all such other relief this Court deems just and proper including costs and attorneys' fees incurred in this action.

Count IV
Violation of First and Fourteenth Amendment to the United States Constitution
(Free Exercise of Religion)

161. Plaintiffs hereby reallege and incorporate by reference the foregoing paragraphs of this Amended Complaint as if fully set forth herein.

162. Defendants' Ramadan Policy and denial of a halal food diet, in addition to the above-mentioned unlawful actions caused and continues to cause Plaintiffs harm because it forces them to choose, on a daily basis between violating their core religious beliefs (that first requires them to fast during the month of Ramadan; and second, requires them to abstain from foods that violate their religious tenets) and waiving their right to receiving a menu that meets minimum nutritional standards.

163. Defendants' Ramadan Policy, denial of halal food policy and above-mentioned unlawful actions chill Plaintiffs' right to free exercise of religion.

164. Defendants have deprived and continue to deprive Plaintiffs of their right to the free exercise of religion as secured by the First Amendment to the United States Constitution, made applicable to the States by the Fourteenth Amendment to the United States Constitution, by both imposing and implementing a Ramadan Policy and denying a halal food diet that substantially burden Plaintiffs' religious exercise.

165. Defendants have arbitrarily and unjustly established a Ramadan Policy requiring Muslim inmates to receive meals that do not meet minimum nutritional standards during the month of Ramadan.

166. Defendants have not established a dietary policy requiring inmates of other faiths participating in religious diets to receive meals that do not meet minimum nutritional standards.

167. Defendants' halal food dietary policy prohibits Plaintiffs from exercising their religion on a daily basis.

168. The restrictions imposed on Plaintiffs and other Muslim inmates have substantially burdened their religious exercise.

169. By imposing and implementing the above-described Ramadan Policy and denying a halal food diet to Muslim inmates, Defendants have imposed a substantial burden on Plaintiffs' exercise of Islam within the correctional facilities

170. Imposition of such a burden is not in furtherance of a compelling government interest and is not the least restrictive means of furthering any governmental interest, compelling or otherwise.

171. Plaintiffs are entitled to a declaration that the Ramadan Policy and denial of the halal food diet is a substantial burden to the free exercise of Plaintiffs' religion, is not justified by a compelling government interest, and is in violation of Plaintiffs' First and Fourteenth Amendment rights to their free exercise of religion.

172. Ramadan is currently scheduled to commence July 9, 2013.

173. Upon information and belief, it is unlikely that this case will be resolved before Ramadan.

174. Plaintiffs are entitled to issuance of a preliminary and permanent injunction granting the relief described in Paragraph 131.

175. Plaintiffs are entitled to issuance of a preliminary and permanent injunction enjoining Defendants from denying Plaintiffs a proper caloric and nutritional diet and a halal food diet.

176. Defendants' unlawful actions caused Plaintiffs harm and Plaintiffs are entitled to injunctive and declaratory relief, compensatory and punitive damages, in addition to all such other relief this Court deems just and proper including costs and attorneys' fees in this action.

WHEREFORE, Plaintiffs request this Honorable Court grant declaratory relief and injunctive relief barring Defendants from engaging in further unconstitutional practices in prohibiting Plaintiffs and other Muslim prisoners from receiving a balanced nutritional diet containing between 2600 and 2900 calories on any given day during Ramadan, and providing them with a halal food diet. Further, Plaintiffs request compensatory and punitive damages against the individual capacity defendants, plus all such other relief this Court deems just and proper including costs and attorneys' fees incurred in this action.

Count V

Violation of First and Fourteenth Amendment to the United States Constitution **(Equal Protection)**

177. Plaintiffs hereby reallege and incorporate by reference the foregoing paragraphs of this Amended Complaint as if fully set forth herein.

178. The Ramadan Policy and denial of halal food diet treats these prisoners on less than equal terms with other religious and non-religious prisoners in Michigan Department of Corrections facilities, thereby creating a denominational preference against Islam as a religion.

179. Defendants' Ramadan Policy and denial of a halal food diet, in addition to the above-mentioned unlawful actions caused and continues to cause Plaintiffs harm because it forces them to choose, on a daily basis between violating their core religious beliefs (that first requires them to fast during the month of Ramadan; and second, requires them to abstain from foods that violate their religious tenets) and waiving their right to receiving a menu that meets minimum nutritional standards.

180. Defendants have deprived and continue to deprive Plaintiffs of their right to equal protection of the laws as secured by the Fourteenth Amendment to the United States Constitution, by imposing and implementing a Ramadan Policy and denying a halal food diet in a manner that discriminates on the basis of religion.

181. Defendants have imposed onerous restrictions on Plaintiffs that have not been imposed on prisoners of other faiths at Michigan Department of Corrections facilities.

182. Defendants have arbitrarily and unjustly established a Ramadan Policy requiring Muslim inmates to receive meals that do not meet minimum nutritional standards during the month of Ramadan.

183. Defendants have not established a dietary policy requiring inmates of other faiths participating in religious diets to receive meals that do not meet minimum nutritional standards.

184. Defendants' halal food dietary policy prohibits Plaintiffs from exercising their religion on a daily basis.

185. The restrictions imposed on Plaintiffs are unconstitutional and have substantially burdened their religious exercise.

186. By imposing and implementing the above-described Ramadan Policy and denying a halal food diet to Muslim inmates, Defendants have imposed a substantial burden on Plaintiffs' exercise of Islam within the correctional facilities.

187. Imposition of such a burden is not in furtherance of a compelling government interest and is not the least restrictive means of furthering any governmental interest, compelling or otherwise.

188. Plaintiffs are entitled to a declaration that the Ramadan Policy and denial of the halal food diet is a substantial burden to the free exercise of Plaintiffs' religion, is not justified by a compelling government interest, and is in violation of Plaintiffs' Fourteenth Amendment right to equal protection of the laws.

189. Ramadan is currently scheduled to commence July 9, 2013.

190. Upon information and belief, it is unlikely that this case will be resolved before Ramadan.

191. Plaintiffs are entitled to issuance of a preliminary and permanent injunction granting the relief described in Paragraph 131.

192. Plaintiffs are entitled to issuance of a preliminary and permanent injunction enjoining Defendants from denying Plaintiffs a proper caloric and nutritional diet and a halal food diet.

193. Defendants' unlawful actions caused Plaintiffs harm and Plaintiffs are entitled to injunctive and declaratory relief, compensatory and punitive damages, in addition to all such other relief this Court deems just and proper including costs and attorneys' fees in this action.

WHEREFORE, Plaintiffs request this Honorable Court grant declaratory relief and injunctive relief barring Defendants from engaging in further unconstitutional practices in prohibiting Plaintiffs and other Muslim prisoners from receiving a balanced nutritional diet containing between 2600 and 2900 calories on any given day during Ramadan, and providing them with a halal food diet. Further, Plaintiffs request compensatory and punitive damages against the individual capacity defendants, plus all such other relief this Court deems just and proper including costs and attorneys' fees incurred in this action.

Count VI

Violation of Eight and Fourteenth Amendment to the United States Constitution (Cruel and Unusual Punishment)

194. Plaintiffs hereby reallege and incorporate by reference the foregoing paragraphs of this Amended Complaint as if fully set forth herein.

195. Under the Eighth Amendment, prisoners have the right to be free from cruel and unusual punishment.

196. The Eighth Amendment imposes a duty on Defendants to provide humane conditions of confinement, including insuring, among other things, that prisoners receive adequate food. See *Farmer v. Brennan*, 511 U.S. 825 (1994).

197. Upon information and belief, the Ramadan Policy does not provide Plaintiffs or Muslim inmates who observe the holy fast during Ramadan, a balanced nutritional diet containing between 2600 and 2900 calories on any given day during Ramadan.

198. Upon information and belief, the daily caloric intake under the Ramadan Policy ranges from approximately 1,100 calories to approximately 1,400 calories, on any given day during Ramadan.

199. The nutritional and caloric intake under the Ramadan Policy is approximately less than half the amount of calories that other inmates receive on any given day during Ramadan.

200. Defendants, acting under color of state law, took Plaintiffs into physical police custody. In doing so, they established a special custodial relationship with Plaintiffs, giving rise to affirmative duties on their part to secure and ensure that Plaintiffs would be given adequate food and to secure for Plaintiffs the constitutionally protected rights identified above.

201. Defendants, acting under color of state law, violated Plaintiffs' above stated constitutionally protected rights by wrongfully denying them adequate food.

202. Specifically, Defendants, acting under color of law, owed Plaintiffs the duty to follow, implement, and comply with Policy Directive 04.07.100 "Offender Meals," which mandated that all menus and meals at correctional facilities provide Plaintiffs a balanced nutritional diet containing between 2600 and 2900 calories on any given day.

203. Defendants, acting under color of law, violated the Policy Directive 04.07.100 "Offender Meals," by deliberately failing to provide Plaintiffs and other Muslim prisoners who observed the holy fast during Ramadan, a balanced nutritional diet containing between 2600 and 2900 calories on any given day during Ramadan.

204. Defendants' deprivation of a balanced nutritional diet containing between 2600 and 2900 calories on any given day during Ramadan is objectively sufficiently serious in that it fails to provide Plaintiffs adequate food (i.e. a humane condition of confinement).

205. Despite Plaintiffs' repeated pleas and requests for a balanced nutritional diet containing between 2600 and 2900 calories on any given day during Ramadan, Defendants failed to take adequate measures to ensure that Plaintiffs were receiving adequate food.

206. Defendants subjectively perceived, or should have subjectively perceived, Plaintiffs' complaints, regarding the inadequacy of food.

207. Defendants' acts and omissions were sufficiently harmful to evidence a substantial risk of serious harm.

208. Defendants' acts and omissions were sufficiently harmful to offend evolving standards of decency in violation of the Eighth Amendment.

209. Defendant's acts and omissions in depriving Plaintiffs with a balanced nutritional diet containing between 2600 and 2900 calories on any given day during Ramadan were such that they denied Plaintiffs and other Muslim inmates the minimal civilized measure of life's necessities.

210. Defendants' actions while acting under color of state law, in denying Plaintiffs a balanced nutritional diet containing between 2600 and 2900 calories on any given day during Ramadan, amounts to cruel and unusual punishment and excessive force in violation of their constitutionally protected rights as stated above.

211. Defendants' conduct as outlined above, was so grossly incompetent, inadequate, or excessive so as to shock the conscience or to be intolerable to fundamental fairness and violates the Eighth Amendment prohibition against cruel and unusual punishment.

212. Defendants, acting under the color of state law, authorized, tolerated, ratified, permitted, or acquiesced in the creation of policies, practices, and customs, establishing a de facto policy of depriving Plaintiffs and other Muslim prisoners observing the holy fast during Ramadan with a balanced nutritional diet containing between 2600 and 2900 calories on any given day during Ramadan.

213. Defendants' policies, customs and practices were carried out willfully and with wanton disregard and with the spirit of gross negligence, and were the direct and deliberate cause of the constitutional deprivations Plaintiffs' liberty, due process, and the direct cause of Plaintiffs' cruel and unusual punishment and excessive force.

214. As a direct and proximate result of these policies, practices and customs, Plaintiffs were deprived of their constitutionally protected rights as described above, by Defendants.

215. As a result of their conduct described above, Defendants are also liable under 42 U.S.C. § 1983.

216. Plaintiffs are entitled to a declaration that the Ramadan Policy and denial of the halal food diet is a substantial burden to the free exercise of Plaintiffs' religion, is not justified by a compelling government interest, and is in violation of Plaintiffs' Fourteenth Amendment right to equal protection of the laws.

217. Ramadan is currently scheduled to commence July 9, 2013.

218. Upon information and belief, it is unlikely that this case will be resolved before Ramadan.

219. Plaintiffs are entitled to issuance of a preliminary and permanent injunction granting the relief described in Paragraph 131.

220. Plaintiffs are entitled to issuance of a preliminary and permanent injunction enjoining Defendants from denying Plaintiffs a proper caloric and nutritional diet and a halal food diet.

221. Defendants' unlawful actions caused Plaintiffs harm and Plaintiffs are entitled to injunctive and declaratory relief, compensatory and punitive damages, in addition to all such other relief this Court deems just and proper including costs and attorneys' fees in this action.

WHEREFORE, Plaintiffs request this Honorable Court grant declaratory relief and injunctive relief barring Defendants from engaging in further unconstitutional practices in prohibiting Plaintiffs and other Muslim prisoners from receiving a balanced nutritional diet containing between 2600 and

2900 calories on any given day during Ramadan, and providing them with a halal food diet. Further, Plaintiffs request compensatory and punitive damages against the individual capacity defendants, plus all such other relief this Court deems just and proper including costs and attorneys' fees incurred in this action.

Prayer for Relief

WHEREFORE, Plaintiffs request that this Honorable Court enter judgment in their favor and against Defendants on each and every count in this complaint, and enter an Order awarding the following relief:

1. A declaratory judgment that:
 - a. Defendants' policies, practices, and customs violate the First and Fourteenth Amendments to the Constitution of the United States, the Religious Land Use and Institutionalized Persons Act of 2000 ("RLUIPA"), and 42 U.S.C. § 1983;
 - b. Defendants' denial of a balanced nutritional diet containing between 2600 and 2900 calories on any given day during Ramadan and a halal food diet constitutes a violation of the First Amendment to the United States Constitution and creates a chilling effect on Plaintiffs' free exercise of religion;
 - c. Defendants' denial of Plaintiffs' request for a balanced nutritional diet containing between 2600 and 2900 calories on any given day during Ramadan and halal food diet is a substantial burden to the free exercise of Plaintiffs' religion and is not justified by a compelling government interest;
 - d. The Ramadan Policy and the halal food dietary policy, as applied to Plaintiffs, treats these prisoners on less than equal terms with other religious and non-religious prisoners in Michigan Department of Corrections facilities; and,

2. An injunction that:
 - a. Enjoining Defendants from denying Plaintiffs a balanced nutritional diet containing between 2600 and 2900 calories on any given day during Ramadan, because Defendants' denial of the proper caloric and nutritional diet forces Plaintiffs, who have a religious basis for fasting during the month of Ramadan, to choose, on a daily basis, between violating their core religious beliefs (ie: fasting during the month of Ramadan) and receiving a menu that meets minimum nutritional standards.
 - b. Enjoining Defendants from denying Plaintiffs a halal food diet because Defendants' denial of the halal food diet forces Plaintiffs, who have a religious basis for consuming a halal diet, to choose, on a daily basis, between violating their core religious beliefs that require them to abstain from foods that violate their religious tenets and waiving their right to receiving a menu that meets minimum nutritional standards.
 - c. Requiring Defendants to remedy the constitutional and statutory violations identified above, including, but not limited to, eliminating any existing policy whereby Plaintiffs and other Muslim prisoners, and others similarly-situated, are denied a balanced nutritional diet containing between 2600 and 2900 calories on any given day during Ramadan and a halal food diet.
3. An award of compensatory and punitive damages against the individual capacity defendants pursuant to 42 U.S.C. § 1983.
4. An award of attorneys' fees, costs, and expenses of all litigation, pursuant to 42 U.S.C. § 1988; and,
5. Such other and further relief as the Court may deem just and proper.

RELIANCE ON JURY DEMAND

NOW COME Plaintiffs, by and through their undersigned counsel, and hereby rely on the jury demand by Plaintiffs of the above-referenced causes of action so triable.

Respectfully submitted,

AKEEL & VALENTINE, PLLC

/s/ Shereef Akeel
SHEREEF H. AKEEL (P54345)
SYED H. AKBAR (P67967)
MUNEEB AHMAD (70391)
Attorneys for Plaintiffs
888 W. Big Beaver Rd., Ste. 910
Troy, MI 48084
Phone: (248) 269-9595
shereef@akeelvalentine.com

COUNCIL ON AMERICAN-ISLAMIC
RELATIONS, MICHIGAN

/s/ Lena Masri
LENA F. MASRI (P73461)
Attorney for Plaintiffs
21700 Northwestern Hwy.,
Ste. 815
Southfield, MI 48075
Phone: (248) 559-2247
lmasri@cair.com

Dated: June 20, 2013

CERTIFICATE OF SERVICE

A copy of this Amended Complaint for Declaratory Relief, Injunctive Relief and Damages and Jury Demand was electronically filed with the United States District Court, Eastern District of Michigan, on June 20, 2013.

/s/ Lena F. Masri