

Wellington S. Coppers #102400
Name and Prisoner/Booking Number

ASPC-Tucson/Santa Rita Unit

Place of Confinement

PO BOX 24401

Mailing Address

Tucson, AZ 85734-4401

City, State, Zip Code

(Failure to notify the Court of your change of address may result in dismissal of this action.)

✓

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9 MAR - 2 2018		9
CLERK U.S. DISTRICT COURT DISTRICT OF ARIZONA		
BY DEPUTY		

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Wellington Spencer Coppers.

(Full Name of Plaintiff)

Plaintiff,

v.

(1) Charles L. Ryan,
(Full Name of Defendant)

(2) Richard Pratt,

(3) Corizon Health, Inc.,

(4) Benjamin Schmid,

Defendant(s).

Check if there are additional Defendants and attach page I-A listing them.

CV18-0118 TUCJASPSOT

CASE NO.

(To be supplied by the Clerk)

**CIVIL RIGHTS COMPLAINT
BY A PRISONER
JURY TRIAL DEMANDED**

- Original Complaint
 First Amended Complaint
 Second Amended Complaint

A. JURISDICTION

1. This Court has jurisdiction over this action pursuant to:

- 28 U.S.C. § 1343(a); 42 U.S.C. § 1983
 28 U.S.C. § 1331; *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971).
 Other: _____

2. Institution/city where violation occurred: ASPC-Tucson

B. DEFENDANTS

1. Name of first Defendant: Charles L. Ryan. The first Defendant is employed as: Director at Central Office.
(Position and Title) (Institution)
2. Name of second Defendant: Richard Pratt. The second Defendant is employed as: as: Assistant Director at Central Office.
(Position and Title) (Institution)
3. Name of third Defendant: Corizon Health, Inc.. The third Defendant is employed as: Health Care Provider at ASPC-Tucson.
(Position and Title) (Institution)
4. Name of fourth Defendant: Benjamin Schmid. The fourth Defendant is employed as: Facility Health Administrator at ASPC-Tucson.
(Position and Title) (Institution)

If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.

C. PREVIOUS LAWSUITS

1. Have you filed any other lawsuits while you were a prisoner? Yes No
2. If yes, how many lawsuits have you filed? 1. Describe the previous lawsuits:
- a. First prior lawsuit:
1. Parties: Wellington S. Cappess v. Tucson Police Department
2. Court and case number: U.S.D.C. (D. Ariz.) at Tucson
3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) Dismissed
- b. Second prior lawsuit: N/A
1. Parties: _____ v. _____
2. Court and case number: _____
3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____
- c. Third prior lawsuit:
1. Parties: _____ v. _____
2. Court and case number: _____
3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____

If you filed more than three lawsuits, answer the questions listed above for each additional lawsuit on a separate page.

D. CAUSE OF ACTION**COUNT I**

1. State the constitutional or other federal civil right that was violated: Eighth Amendment,
United States Constitution.

2. Count I. Identify the issue involved. Check only one. State additional issues in separate counts.

- | | | | |
|--|---|---|--|
| <input type="checkbox"/> Basic necessities | <input type="checkbox"/> Mail | <input type="checkbox"/> Access to the court | <input checked="" type="checkbox"/> Medical care |
| <input type="checkbox"/> Disciplinary proceedings | <input type="checkbox"/> Property | <input type="checkbox"/> Exercise of religion | <input type="checkbox"/> Retaliation |
| <input type="checkbox"/> Excessive force by an officer | <input type="checkbox"/> Threat to safety | <input type="checkbox"/> Other: _____ | |

3. Supporting Facts. State as briefly as possible the FACTS supporting Count I. Describe exactly what each Defendant did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

P1 Each defendant is sued individually and in their official capacity. At all times mentioned in this complaint each defendant acted under the color of state law.

P2 Plaintiff is a 46 year old prisoner serving a lengthy 44.5 year term of incarceration under the care, custody and jurisdiction of the Arizona Department of Corrections (ADC) or the Department.

P3 Defendant Horizon Health, Inc., is ADC's current contract health care provider. Non-party Wexford Health Sources, Inc. was ADC's previous health care provider. Plaintiff's Declaration (Pl. Decl.) at Ppg 51

P4 In 2009, ADC via Wexford diagnosed Plaintiff with chronic hepatitis C virus (HCV). Pl. Decl. at P4

P5 In September, 2011, ADC / Wexford diagnosed Plaintiff with stage II cirrhosis liver disease (LD). Pl. Decl. at P6

4. Injury. State how you were injured by the actions or inactions of the Defendant(s).

P1 Plaintiff re-alleges and incorporates by reference paragraphs 1-27.

5. Administrative Remedies:

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? Yes No
- b. Did you submit a request for administrative relief on Count I? Yes No
- c. Did you appeal your request for relief on Count I to the highest level? Yes No
- d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. _____

3. Supporting Facts (Cont.):

P6 Defendant ADC Director Charles L. Ryan is responsible for the overall operations and policies of ADC, inclusive of constitutionally mandated health care and medical services for prisoners with serious medical needs. See Eighth Amendment, U.S. Const.; A.R.S. §§ 41-1604, 41-1604.5(D), 31-201.01 (ATO)

P7 On 12-19-2012 and 10-22-2016, respectively, Ryan executed and implemented ADC Department Order D.O. 1101 Inmate Access To Health Care, and thereby, according to its stated purpose "requires inmates to be provided opportunities for reasonable and appropriate access to medical ... health care.... [and] also requires appropriate and uninterrupted health care be provided to inmates with chronic health conditions." ADC D.O. 1101 Purpose

P8 Defendant Richard Pratt is the Assistant Director for the ADC Health Services Contract Monitoring Bureau (HSCMB). Assistant Director Pratt, as HSCMB, is responsible for "holding" the Contractor providing Health Services accountable to ensure all inmates are provided access to scheduled and emergency (as needed) health care, and are not refused health care treatment due to financial reasons." ADC D.O. 1101 Responsibility

P9 Defendants Corizon and Facility Health Administrator (FHA) Benjamin Schmid are required, under D.O. 1101 to "ensure inmates with chronic conditions are entered into the EHR, or electronic tracking system, to ensure the inmates are seen on a regularly scheduled basis, as ordered by the health care provider" (HCP). Pl. Dec. at P14; D.O. 1101.D7.1.1.B Chronic Illnessness

Pl10 By execution of D.O. 1101, Ryan recognizes that Plaintiff's HCV is a "Chronic Condition Requiring Regular Examinations And/Or Treatment." ADC D.O. 1101 Definitions ("Clinical guidelines have been developed for these conditions.") End Stage Liver Disease is also listed as a chronic condition. Id. Pl11 Beginning with Plaintiff's 2009 HCV diagnosis and continuing through his 2011 cirrhosis diagnosis, 2013 Splenectomy and continuing at present, neither ADC, Defendants Ryan, Pratt, Corizon nor non-party Wexford, either recommended that Plaintiff receive HCV treatment, approved his request for HCV treatment, or ensured that he received regular examinations and/or treatment as prescribed by D.O. 1101, the official clinical guidelines developed by the defendants, or the guidelines and standard of care, recognized as necessary by the HCV medical/scientific community. Pl. Dec. at PP29-43, 54-56, 59, 61

Pl12 Recently, on 01-08-2018, Corizon employee Nurse Practitioner (NP) Julie Shute confirmed and acknowledged that, according to Plaintiff's ADC medical records history this cirrhosis and HCV had not been regularly monitored. Plaintiff performs "self-monitoring" and does his best to alert ADC officials and Corizon health care providers (HCPs) when he senses any HCP/LD complications. Pl. Dec. at PP15, 16, 27, 45

Pl13 On 12-21-2017, Plaintiff gave notice and made a formal request to Defendants Ryan, Pratt and Corizon for HCV treatment and indicated inadequate monitoring and assessment.

Pl. Dec. at PP21, 26; Complaint, Attachment A, et seq.

P14 On 01-03-2018, Plaintiff filed an informal grievance against ADC and Corizon regarding denied HCV treatment and irregular/inadequate assessment and monitoring of his chronic conditions. On 02-02-18, Plaintiff filed a formal grievance raising the same issues/denied treatment.
Attachment B, et seq.

P15 In official Corizon/ADOC responses dated 01-23-18 and 02-14-18, the defendants denied the plaintiff's request for HCV treatment. Defendant Schmid indicated that Plaintiff did "not meet the qualifications for treatment." Schmid's statement was made and HCV treatment denial occurred without performance of the necessary medical procedures to determine the stage, condition or severity of Plaintiff's HCV and cirrhosis L.D. Only preliminary/cursory blood tests were performed prior to denying HCV treatment.

Pl. Dec. at PP 22-26, 46-52; Attachment B, et seq.

P16 Corizon non-medical administrators denied the requests for the necessary testing; gastroenterology consult, liver biopsy, CT scan or ultrasound, submitted by NP Shute and NP Workman. One of the requests was submitted on 01-17-18, prior to FHA Schmid's 02-14-18 grievance response denying treatment.
Pl. Dec. at PP 47-52

P17 According to Corizon staff, interviews of hundreds of HCV-infected ADC prisoners and ADC medical records, ADC/Corizon does not provide HCV treatment. Pl. Dec. at PP 22, 28, 44, 60

P18 It is well-established in the HCV/LD/cirrhosis medical community that HCV patients with cirrhosis are often asymptomatic immediately prior to liver failure and that untreated HCV causes long-term liver damage, fibrosis, cirrhosis, liver failure and death. Pl. Dec. at pp 17, 29-44

P19 The fact that Plaintiff suffered a splenectomy in 2013, may invalidate the blood tests performed by Corizon in January/February, 2018. Pl. Dec. at pp 37-39

P20 The current status of Plaintiff's HCV/cirrhosis and LD is unknown because the proper medical procedures have not been performed and were denied by Defendants Corizon and Schmid on 02-14-18, and/or by Defendants Ryan and Pratt because ADC's longtime policy, practice or custom is not to regularly/properly monitor HCV infected prisoners. See Declarations of Robert Homar, Agustin Rivera, Luis Matsumoto, Russell Blystone and Jacob Napolitano (Declarations)

P21 The recent round of HCV blood tests were performed and initiated as a result of back pain, bloating and constant fatigue experienced by Plaintiff in mid-to-late 2017. Plaintiff initiated contact with medical staff which, in turn led to the 2018 blood tests. Plaintiff completed the ADC internal grievance process on this issue because the symptoms were probably related to HCV. Pl. Dec. at pp 18-20

Attachment C, et seq.

P22 According to the HCV clinical guidelines purportedly followed by Ryan, Pratt and ADC Corizon, inmates with known or suspected cirrhosis are high-priority for treatment. Hepatocellular carcinoma screening via ultrasound is recommended every six months for patients with both HCV and cirrhosis. The defendants are aware of Plaintiff's chronic conditions. Pl. Dec. at PP34, 35, 39-44, 59

P23 According to HCV/LD experts, Defendant Ryan and co-party Wexford should have treated Plaintiff within "three to six months" after his 2011 cirrhosis diagnosis. Id., at PP40, 41

P24 In 2013, a new class of HCV drugs known as direct-acting antivirals (DAAs) were released to market. DAAs proved to be a revolution in medicine; about 95% of patients treated with DAAs were cured of HCV. A course of treatment current costs \$37,000. Pl. Dec. at PP54-56

P25 Plaintiff suffers from severe emotional distress proximately caused by Defendants Ryan, Pratt and Corizon's longtime practice and policy of not providing HCV treatment and inadequate HCV/LD monitoring, which results in constant worry, hypochondriac, depression and other forms of mental anguish such as a fear of imminent death. Id., at PP61-63

P26 ADC has not treated prisoners infected with HCV in more than 10 years. Id., at PP13, 28, 22, 44, 54, 60

P27 Defendant HSLMB Pratt has failed to monitor Corizon's HCV examination, assessment and treatment practices, which has significantly contributed and/or proximately caused ADC Corizon staff and HCPs not to follow HCV clinical guidelines and expert recommendations. Plaintiff was and will continue to be denied HCV treatment as a result of Director Ryan and HSLMB Assistant Director Pratt's failure to adequately monitor Corizon and its practices regarding HCV, LD, end stage liver disease (ESLD) and cirrhosis treatment/monitoring guidelines and regimens, which omissions endanger Plaintiff's life. Pl. Dec. at PP 3, 9-17, 21, 22, 25, 26, 28, 34, 35, 39-44, 46, 49, 50, 52, 59-61; Declarations

4. Injury (Cont.):

P28 Defendant FHA Benjamin Schmid, by denying the plaintiff's 12-21-17 ADC Health Needs Request for HCV treatment and by failing to ensure that he received the proper HCV/cirrhosis diagnostic testing, assessment and monitoring prior to denying his ADC grievance on 02-14-08, was deliberately indifferent to the plaintiff's serious medical needs in violation of his rights under the Eighth Amendment to the United States Const., and caused and continues to cause him pain, suffering, physical injury and severe emotional distress.

P3 Defendant Corizon Health, Inc., by denying the plaintiff's requests for HCV treatment and engaging in an ongoing pattern and practice of not treating him or any HCV-infected ADC prisoners, and by not providing him with the proper HCV/cirrhosis diagnostic testing, assessment and monitoring prior to denying HCV treatment, and by not providing regular examinations at any time since it became ADC's contract health care provider (HCP), which acts and omissions have and will continue to proximately cause deliberate indifference to the plaintiff's serious medical needs by its employees / subcontractors in violation of his rights under the Eighth Amend., U.S. Const., and caused and continues to cause him pain, suffering, physical injury, and severe emotional distress.

P4 Defendant ADC HSCMB Richard Pratt was, is, and will continue to be deliberately indifferent to the plaintiff's serious medical needs by inadequately monitoring the HCV/LD practices and policies of Corizon Health Inc., and by failing to ensure that he received access to the proper HCV/cirrhosis assessment and monitoring and treatment, and by not ensuring that Corizon followed the applicable HCV/LD guidelines, in violation of the Eighth Amend., U.S. Const., and caused and will continue to cause him pain, suffering, physical injury and severe emotional distress.

P5 Defendant ADC Director Charles L. Ryan, by failing to ensure that the plaintiff had access to adequate medical services to treat, monitor, and assess his HCV/ILD and cirrhosis, and by implementation of policies and HCV guidelines that fail to provide him with a meaningful opportunity to enjoy access to health care for his chronic conditions, and by directly overseeing ADC's health care system in a manner that ensures that neither the plaintiff nor any HCV-infected prisoner would ever receive HCV treatment due to its high cost and great number of HCV-infected ADC prisoners, in violation of his rights under the Eighth Amendment, U.S. Const., and caused and will continue to cause him pain, suffering, physical injury and severe emotional distress.

E. REQUEST FOR RELIEF

State the relief you are seeking:

Declaratory relief that the acts and omissions described herein violate Plaintiff's 8th amend. rights; Compensatory and Punitive damages in the amount of \$1,000,000 against all defendants jointly; Cost of suit; and a Preliminary and Permanent Injunction ordering Defendants to provide HCV treatment.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 02-28-2018
DATE

Wellington S. Coppers
SIGNATURE OF PLAINTIFF
Wellington S. Coppers
In Proculper

N/A

(Name and title of paralegal, legal assistant, or other person who helped prepare this complaint)

N/A

(Signature of attorney, if any)

N/A

(Attorney's address & telephone number)

ADDITIONAL PAGES

All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number all pages.

ATTACHMENT A

Health Needs Request (HNR)

SECTION/SECCION I

Inmate Name/Nombre (Last, First M.I.) (Apellido, Nombre, Inicial)

COPPERS, Wellington S.

ADC Number/Número de ADC

108400

Date/Fecha

10-21-17

Cell/Bed Number/Celda/Número de Cama

J-C-1

Unit/Unidad

Santa Rita

P.O. Box/Apartado Postal

244101

Institution/Facility/Instalación: ASPC

Tucson

You are required to be truthful. Failure to be cooperative and any abuse of the health care system or its staff could cause a delay in delivery of care to you and others, and may result in disciplinary action (Use this form to describe only one problem or issue at one time). [Se le exige diga la verdad. La falta de cooperación y cualquier abuso del sistema del cuidado de la salud o del personal podría retrasar la asistencia de este cuidado para usted y para otros y puede dar lugar a una acción disciplinaria (Use este formulario para describir un problema a la vez).]

AREA OF INTEREST(Check only one block below)/AREA DE INTERES (MARQUE UN ESPACIO SOLAMENTE) Medical/Médica Dental FHA Pharmacy/Farmacia Mental Health/Salud Mental Eyes/Ojos Other (specify)/Otros (especifique) _____

PLEASE PRINT! Describe your medical/dental treatment issue need in the space below. Be clear and specific. NO ADDED PAGES. [POR FAVOR, ESCRIBA EN IMPRENTA! Describa su tratamiento o necesidad médica/dental en el espacio de abajo. Describa claramente y sea específico. ¡NO USE MAS HOJAS!]!

I have Hep C and I would like to be given the treatment for it.

Thank You

I understand that, per ARS 31-201.01, I will be charged a \$4.00 Health Service fee (excluding exemptions granted by statute) for the visit that I am herein requesting. I further understand that by paying this fee I do not have the right to dictate treatment or who provides treatment. [Entiendo que de acuerdo con ARS 31-201.01 se me cobrará una cuota por el servicio médico de \$4.00 por la cita que aquí estoy pidiendo (excluyendo las exenciones otorgadas por la ley). Además entiendo que al pagar esta cuota no tengo el derecho a imponer el tratamiento o quien lo proporcione.]

Inmate's Signature/Firma del prisionero

REMOVE THE GOLDENROD COPY AND PLACE THE REMAINDER IN THE HEALTH NEEDS REQUEST DROP BOX[SEPARA LA COPIA DE COLOR AMARILLO OSCURO Y DEJE LAS DEMAS EN EL BUZON PETICION DE NECESIDADES MÉDICAS]

REFERRAL BY MEDICAL STAFF/REFERENCIA MEDICA Medical/Médica Dental Pharmacy/Farmacia FHA Mental Health/Salud Mental Eyes/Ojos Other/Otros (specify) (especifique) _____

Comments/Comentarios

NL

Staff Signature Stamp/Firma del empleado

Date/Fecha

Time/Hora

DEC 22 2017 8:37

PLAN OF ACTION/PLAN DE ACCION

See on NL - provide review

Staff Signature Stamp/Firma del empleado

Date/Fecha

Time/Hora

12/22/17

1331

Distribution: White/Blanca - Health Unit/Unidad de Salud, Canary, Pink & Goldenrod - Inmate/Amarillo Canario, Rosa y Amarillo Oscuro - Prisonero

This document is a translation from original text written in English. This translation is unofficial and is not binding on this state or a political subdivision of this state. [Este documento es una traducción de texto original escrito en inglés. Esta traducción no es oficial y no compromete a este estado ni una subdivisión política de este estado.]

ARIZONA DEPARTMENT OF CORRECTIONS



Inmate Letter

Requests are limited to one page and one issue. NO ATTACHMENTS PERMITTED. Please print all information.

Inmate Name (Last, First M.I.)	ADC Number	Institution/Unit	Date
COPPERS, Wellington	1084100	Tucson Santa Rita	12-21-17

To:	Location
Richard Pratt	Central Office

State briefly but completely the problem on which you desire assistance. Provide as many details as possible.

I saw Corizon's medical staff about getting treatment for my Hep.C I was told by them that they were not the ones who made the decision on who gets treatment.

My understanding is is you are the one who monitors Corizon and can authorize my Hep C treatment. I have been trying to get treated since before 2011, when I was diagnosed with stage 1 cirrhosis. I'm sure it has gotten worse since then, but nothing is being done to help me. Will you please get me the treatment I need. I am also going to write Mr. Ryan asking him to help me as well.

Thank you for your time and consideration in this matter. I look forward to your reply.

Inmate Signature	Date
Wellington	12/21/17

Have You Discussed This With Institution Staff?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If yes, give the staff member's name:	Corizon	

ARIZONA DEPARTMENT OF CORRECTIONS

Requests are limited to one page and one issue. NO
ATTACHMENTS PERMITTED. Please print all information.

Inmate Letter



Inmate Name (Last, First M.I.)

COPPESS, Wellington S

ADC Number

102400

Institution/Unit

Tucson
Santa Rita

Date

12-21-17

To:	Location
Charles Ryan	Central Office

State briefly but completely the problem on which you desire assistance. Provide as many details as possible.

I saw Corizon's medical staff about getting treatment for my Hep. C. I was told by them that they were not the ones who make the decision on who gets treatment.

Being that you're the Director of ADC I know you have the authority to authorize my Hep C treatment. I was diagnosed with stage 2 cirrhosis in 2011, and am positive it has gotten worse since then.

I have also wrote Richard Platt this same I'm letter asking for the treatment. I look forward to your response.

Thank You.

Inmate Signature

A handwritten signature in black ink, appearing to read "Wellington S. Coppeess".

Date

10/01/17

Have You Discussed This With Institution Staff?

 Yes

 No

If yes, give the staff member's name:

Corizon

ATTACHMENT B

ARIZONA DEPARTMENT OF CORRECTIONS

ADC

Complaints are limited to one page and one issue.

Inmate Informal Complaint Resolution

Please print all information.

INMATE NAME (Last, First M.I.) (Please print)	ADC NUMBER	INSTITUTION/UNIT	DATE (mm/dd/yyyy)
Coppiss, Wellington	102400	Tucson Santa-Rita	1-3-18

TO	LOCATION
Corizon	Santa-Rita Medical

State briefly but completely the problem on which you desire assistance. Provide as many details as possible.

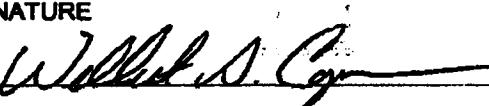
Corizon is denying me medical treatment for my Hep-C.

At the end of 2009, I was diagnosed with Hep C. Towards the end of 2011, I was given a liver biopsy. I was told I had stage 2 cirrhosis.

Since then I have asked medical several times for treatment. However, I have been told by medical staff, that Corizon's policy is to monitor enzyme levels. That they would not treat me until I was in the advanced stages of the disease. I have asked for another biopsy, but was denied that as well.

1. I want another biopsy to be done, to know what stage my disease is in

2. I want to be treated for the Hep C.

INMATE SIGNATURE	DATE (mm/dd/yyyy)
	1/3/18

Have you discussed this with institution staff? Yes No

If yes, give the staff member name:

Distribution: INITIAL: White and Canary or Copies - Grievance Coordinator; Pink or Copy - Inmate
FINAL: White - Inmate; Canary - Grievance Coordinator File

ARIZONA DEPARTMENT OF CORRECTIONS

Inmate Grievance



Note: You may appeal the Grievance Coordinator's decision to the Warden/Deputy Warden/Administrator by filing form 802-3, within 10 calendar days of receipt of this notice.

FEB 2 PM 3:12

Received By

Brookhart

Title

Co II

Badge Number

9532

Date

02/02/18

Inmate Name (Last, First M.I.)

COPPES, WELLINGTON S.

ADC Number

102400

Date

2-2-18

Institution/Facility

Tucson - Santa Rita

Case Number

C02-026-018

To:

Description of Grievance (To be completed by the inmate)

APR and Corizon have denied hepatitis C treatment as a matter of policy and practice. I've had Hep. C for 9 years and it has caused liver damage, and will inevitably lead to liver failure or cancer and death. denying me treatment because of the expense, is not a valid excuse.

Proposed Resolution (What informal attempts have been made to resolve the problem? What action(s) would resolve the problem?)

1. Provide treatment without further delay
2. In the event that Corizon denies my request, I request that C. Ryan and Richard Pratt bypass Corizon and arrange that I be taken to an outside consultant to begin treatment.

Inmate's Signature

Date

2/2/18

Grievance Coordinator's Signature

Date

02/02/18

Action taken by _____

Documentation of Resolution or Attempts at Resolution.

Staff Member's Signature

Badge Number

Date



ARIZONA DEPARTMENT OF CORRECTIONS

Inmate Informal Complaint Response

For Distribution: Copy of Corresponding Inmate Informal Complaint Resolution must be attached to this response.

INMATE NAME (Last, First M.I.) (Please print)	ADC NUMBER
Coppess, Wellington	102400
INSTITUTION/ UNIT	
ASPC-Tucson / Santa Rita MI C02-18-002	

FROM Stephanie Aquino, RN, Asst. Director of Nursing	LOCATION Complex Health Unit
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CORIZON
INMATE INFORMAL COMPLAINT RESPONSE

Your inmate informal complaint dated 1/3/18 was received in the Tucson office of Corizon Inmate Health Services on 1/4/18.

Your primary area of concern is not being treated for HEP C.

Your concern has been reviewed by medical and it was determined that on 1/17/18 you saw the medical provider who went over your current health status extensively. At this time you do not meet the necessary criteria to qualify for HEP C treatment while in ADOC. If you have further questions about the HEP C criteria please discuss this at your next chronic care appointment.

This informal complaint has been addressed. This has resolved your concern.

SA/ds(21252)

STAFF SIGNATURE 	S. Aquino Sr. ADON	DATE (mm/dd/yyyy) 1/23/2018
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ARIZONA DEPARTMENT OF CORRECTIONS

Inmate Grievance

For Distribution: Copy of Corresponding Inmate Grievance Resolution must be attached to this response.

INMATE NAME (Last, First M.I.) (Please print)	ADC NUMBER
Coppess, Wellington	102400
INSTITUTION/ UNIT	CASE NUMBER
ASPC-Tucson / Santa Rita C02-026-018	

**CORIZON
INMATE GRIEVANCE RESPONSE**

Your inmate grievance dated 2/2/18 was received in the Tucson office of Corizon Inmate Health Services on 2/2/18.

Your primary area of concern is a treatment for Hepatitis C.

Your concern has been reviewed by medical and it was determined on 1/17/18 you saw the provider. She explained to you the criteria for Hepatitis C treatment. At this time you do not meet the qualifications for treatment. Please keep your chronic care appointments to monitor your disease. If you need medical attention before your next chronic care visit please submit an HNR at open sick call.

This grievance has been addressed. "In accordance with current policy, this response is final, and constitutes exhaustion of all remedies within the Department."

BS/ds(21333)

Please note, per Revised Department Order 802.05, 1.2, pg. 5 - "Specifying the decision of the Contract Facility Health Administrator is final and constitutes exhaustion of all remedies within the Department."

STAFF SIGNATURE	DATE (mm/dd/yyyy)
Benjamin Schmid, FMA	15-2 2/14/2018

MSST833

Notification of Diagnostic Results

Facility: ASPC-T SANTA RITA

Housing Area: BL2C

Bed#: 01B

Patient Name: WELLINGTON S. COPPESS

ADC#: 102400

Notification Date: 01/24/2018

This is to inform you that we have received the results of your diagnostic test performed on 01/23/2018.

Based on evaluation, your results were within acceptable limits. No further action is needed.

Based on evaluation, you will be scheduled for a follow-up appointment. If you are released before your next visit, please follow-up with your doctor or clinic.

Additional Comments

At next FU appointment.

TimeStamp: 24 January 2018 08:29:42 --- User: Julie Shute (SHUJU01)

Shute, Julie

Reviewing Practitioner

01/24/2018

Date

MSST833

Notification of Diagnostic Results

Facility: ASPC-T SANTA RITA

Housing Area: BL2C

Bed#: 01B

Patient Name: WELLINGTON S. COPPES

ADC#: 102400

Notification Date: 01/30/2018

This is to inform you that we have received the results of your diagnostic test performed on 01/26/2018.

Based on evaluation, your results were within acceptable limits. No further action is needed.

Based on evaluation, you will be scheduled for a follow-up appointment. If you are released before your next visit, please follow-up with your doctor or clinic.

Additional Comments

Within the week.

TimeStamp: 30 January 2018 21:21:15 --- User: Julie Shute (SHUJU01)

Shute, Julie

01/30/2018

Reviewing Practitioner

Date

MSST833

Notification of Diagnostic Results

Facility: ASPC-T SANTA RITA

Housing Area: BL2C

Bed#: 01B

Patient Name: WELLINGTON S. COPPESS

ADC#: 102400

Notification Date: 02/04/2018

This is to inform you that we have received the results of your diagnostic test performed on 02/02/2018.

Based on evaluation, your results were within acceptable limits. No further action is needed.

Based on evaluation, you will be scheduled for a follow-up appointment. If you are released before your next visit, please follow-up with your doctor or clinic.

Additional Comments

Within two weeks.

TimeStamp: 4 February 2018 14:59:43 --- User: Julie Shute (SHUJU01)

Shute, Julie

02/04/2018

Reviewing Practitioner

Date

ATTACHMENT C



Please print all information.

Inmate Informal Complaint Resolution

INMATE NAME (Last, First M.I.) (Please print)	ADC NUMBER	INSTITUTION/UNIT	DATE (mm/dd/yyyy)
Coppock, Wellington	102400	Tucson Santa Rita	1-17-18

TO	LOCATION
COM Reyes	Yard 2

State briefly but completely the problem on which you desire assistance. Provide as many details as possible.

I was given injections in my back due to back pain. The injections were extremely painful. The pain lasted about 3 days after the injections. I received the injections once a week for about 5 weeks.

On 1-8-18, I saw a new provider who said the injections were meant for joints, i.e. elbows and knees. She informed me that receiving them could have paralyzed me. That they should never have been prescribed, and that she wasn't even qualified to administer them. She also noticed that the 2 meds I was prescribed were not supposed to be taken together. Now I have more back pain, than I did before I started the injections.

Resolution: I would like to know how this could have happened. Who monitors these providers? I would like to have my back treated properly.

INMATE SIGNATURE	DATE (mm/dd/yyyy)
<u>Wellington A</u>	1/17/18

Have you discussed this with institution staff? Yes No

If yes, give the staff member name:

ARIZONA DEPARTMENT OF CORRECTIONS



Inmate Grievance

18 FEB 12 10:13 AM

Note: You may appeal the Grievance Coordinator's decision to the Warden/Deputy Warden/Administrator by filing form 802-3, within 10 calendar days of receipt of this notice.

Received By

T. Craig

Title

CO III

Badge Number

6213

Date

2/8/18

Inmate Name (Last, First M.I.)

COPPERS, Wellington

Institution/Facility

Tucson Santa Rita

ADC Number

102400

Date

0-7-18

Case Number

602-035-018

To:

Description of Grievance (To be completed by the inmate)

I was given injections in my back due to back pain. The injections were extremely painful. The pain lasted about 3 days after the injections I received them once a week for 5 weeks. On 1-18-18 I saw a new provider who said the injections were meant for joints ie. elbows and knees. I was informed that receiving them could have paralyzed me and that they should never have been prescribed. That he wasn't even qualified to give them. He also noticed that the 2 meds I was prescribed were not supposed to be taken together. Now I have more back pain than I did before I started the injections.

Proposed Resolution (What informal attempts have been made to resolve the problem? What action(s) would resolve the problem?)

I need to have my back looked at by an outside source who doesn't work for Tucson, and to have it treated properly.

Inmate's Signature

Date

2/7/18

Grievance Coordinator's Signature

Date

02/09/18

Action taken by _____

Documentation of Resolution or Attempts at Resolution.

Staff Member's Signature

Badge Number

Date



ARIZONA DEPARTMENT OF CORRECTIONS

Inmate Informal Complaint Response

For Distribution: Copy of Corresponding Inmate Informal Complaint Resolution must be attached to this response.

INMATE NAME (Last, First M.I.) (Please print) Coppess, Wellington	ADC NUMBER 102400
INSTITUTION/ UNIT ASPC-Tucson / Santa Rita MI C02-18-016	

FROM Robert Burdine, RN, Director of Nursing	LOCATION Complex Health Unit
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CORIZON
INMATE INFORMAL COMPLAINT RESPONSE

Your inmate informal complaint dated 1/17/18 was received in the Tucson office of Corizon Inmate Health Services on 1/18/18.

Your primary area of concern is being given Trigger point injections.

Your concern has been reviewed by medical and it was determined that your chart has been reviewed and this issue has been forwarded for review by the Medical Director.

This informal complaint has been addressed. This has not resolved your concern pending the medical director's review..

RB/ds(21226)

STAFF SIGNATURE 	R. Burdine, DON	DATE (mm/dd/yyyy) 1/30/2018
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Distribution: INITIAL: White and Canary or Copies - Grievance Coordinator; Pink or Copy - Inmate
FINAL: White - Inmate; Canary - Grievance Coordinator File

802-12
10/16/16



ARIZONA DEPARTMENT OF CORRECTIONS

Inmate Grievance

*For Distribution: Copy of Corresponding Inmate
Grievance Resolution must be attached to this
response.*

INMATE NAME (Last, First M.I.) (Please print) Coppess, Wellington	ADC NUMBER 102400
INSTITUTION/ UNIT ASPC-Tucson / Santa Rita C02-035-018	CASE NUMBER

**CORIZON
INMATE GRIEVANCE RESPONSE**

Your inmate grievance dated 2/7/18 was received in the Tucson office of Corizon Inmate Health Services on 2/12/18.

Your primary area of concern is back pain.

Your concern has been reviewed by medical and it was determined that there is no documentation in your chart stating that the back injections could be harmful. Your chart has been forwarded to the Medical Director for review, but you will not be given any results. You have been given an analgesic balm and tramadol for back pain. If your condition does not get any better or worsens please submit an HNR at open sick call to be re-evaluated.

This grievance has been addressed. "In accordance with current policy, this response is final, and constitutes exhaustion of all remedies within the Department."

BS/ds(21372)

Please note, per Revised Department Order 802.05, 1.2, pg. 5 - "Specifying the decision of the Contract Facility Health Administrator is final and constitutes exhaustion of all remedies within the Department."

STAFF SIGNATURE 	DATE (mm/dd/yyyy) 2/20/2018
--	---------------------------------------

MSST833

Notification of Diagnostic Results

Facility: ASPC-T SANTA RITA

Housing Area: BL2C

Bed#: 01B

Patient Name: WELLINGTON S. COPPES

ADC#: 102400

Notification Date: 11/03/2017

This is to inform you that we have received the results of your diagnostic test performed on 10/31/2017.

- Based on evaluation, your results were within acceptable limits. No further action is needed.
 Based on evaluation, you will be scheduled for a follow-up appointment. If you are released before your next visit, please follow-up with your doctor or clinic.

Additional Comments

Low back x-ray with some abnormal findings. To be reviewed at provider follow-up visit.

E. Baskas NP

11/03/2017

Reviewing Practitioner

Date

Scheduled for
week of 10/4/17 - 10/8/17

T. Olds, CNA

Wellington S. Coppess #102400
ASPCG Tucson/Santa Rita Unit
PO BOX 24401
Tucson, AZ 85734
Plaintiff, In Pro Per

✓	FILED RECEIVED	LODGED COPY
9 MAR - 2 2018		9
CLERK U.S. DISTRICT COURT DISTRICT OF ARIZONA		
BY DEPUTY		

In The United States District Court
For The District Of Arizona

CV 18-0118 TUCJASPSOT

Wellington Spencer Coppess, No.
Plaintiff,

v.
Charles L. Ryan, et al.,
Defendants.

Motion For Preliminary
Injunction And
Temporary Restraining
Order

Plaintiff, Wellington S. Coppess, in pro per,
pursuant to Rule 65, Fed. R. Civ. P., hereby
moves the Court to issue orders granting
his requests for a temporary restraining
order and preliminary injunction. This
motion is supported by the accompanying
memorandum of law.

Executed on 02-28-2018

Wellington S. Coppess
Wellington S. Coppess

Wellington S. Coppess #102400
ASPC-C Tucson / Santa Rita Unit
PO BOX 24401
Tucson, AZ 85734-4401
Plaintiff, In Pro Per

		✓	FILED	RECEIVED	LODGED	COPY
		MAR - 2 2018				
		CLERK U.S. DISTRICT COURT DISTRICT OF ARIZONA				BY DEPUTY

In The United States District Court
For The District Of Arizona

CV18-0118 TUCJASPSOT

Wellington S. Coppess, No.
Plaintiff,

v.

Charles L. Ryan, et al., Defendants. Memorandum Of Law
In Support Of Motion
For Preliminary
Injunction And Temporary
Restraining Order

Statement of the Case

This is a civil rights action brought under 42 U.S.C. §1983 by a state prisoner whose life-threatening chronic illnesses have not been regularly examined, monitored or treated. The plaintiff seeks injunctive relief to ensure that he receives proper medical care.

1.

Statement of Facts

P1 Plaintiff's declaration submitted with this motion indicates that he was diagnosed with chronic hepatitis C virus (HCV) in 2009, cirrhosis in 2011, and received a splenectomy in 2013. (Pl. Dec. at PP4-7,44)

P2 In January, 2018, Plaintiff initiated the prison grievance procedure regarding the Arizona Department of Corrections (ADC) systemic failure to treat ADC prisoners infected with HCV. On 02-14-18, Plaintiff exhausted his ADC administrative remedies with respect to inadequate HCV/cirrhosis monitoring and denied/refusal to treat. (Pl. Dec. at PP15-27)

P3 ADC's current unwritten policy, practice and custom is to not provide HCV treatment at all. ADC prisoners infected with HCV are regularly and consistently denied treatment regardless of the severity of condition.

(Pl. Dec. at PP13,28; Declarations of Robert Homas, Agustin Rivera, Luis Matsumoto, Russell Blystone and Jacob Napolitano, hereafter "Declarations.")

P4 The defendants are Charles L. Ryan, Richard Pratt, Benjamin Schmid and Corizon Health, Inc.

P5 The defendants are aware of dangers associated with untreated HCV. ADC Department Order (D.O.) 1101 Inmate Access To Health Care lists End Stage Liver Disease (ESLD) and HCV as "Chronic Conditions Requiring Regular Examinations And/Or Treatment" at ADC Statewide Facilities. (Pl. Dec. at ¶12)

P6 Defendant Ryan officially executed and implemented D.O. 1101 on 10-22-2016. Clinical guidelines have been developed by ADC for the screening, evaluation, treatment and regular examination/monitoring of prisoners infected with HCV and/or diagnosed with fibrosis/cirrhosis. (Pl. Dec. at ¶¶10,34,35)

P7 It is well-known by both the general public and HCV experts that HCV patients with cirrhosis can be completely asymptomatic immediately prior to liver failure, and that untreated HCV causes long-term liver damage, fibrosis, cirrhosis & hepatocellular carcinoma, liver failure and death. (Pl. Dec. at ¶¶17,29-33,41,42)

P8 Despite the availability of highly effective HCV treatment regimens, ADC / defendants deny treatment to Plaintiff and all other HCV-infected ADC prisoners due to the high cost of treatment.

(Pl. Dec. at PP54-56)

P9 Despite the longevity, progressiveness, and severity of Plaintiff's HCV/cirrhosis, inclusive of his 2013 splenectomy, the defendants have neither monitored nor regularly examined any of his chronic conditions. (Pl. Dec. at PP15,16,20,21,26-28,44-46)

Argument

The Plaintiff Is Entitled To A Temporary Restraining Order And Preliminary Injunction

P10 In determining whether a party is entitled to injunctive relief, the standard for temporary restraining orders (TRO) and preliminary injunctions is the same, courts generally consider several factors.

A. The Plaintiff is Threatened with Irreparable Injury

P11 Plaintiff alleges that he has been denied care for a serious medical need. That HCV presents a serious medical need is undisputed. Brown v. Johnson, 387 F.3d 1344, 1351 (11th Cir. 2004)

P12 Plaintiff further alleges that he has been denied care for his serious medical needs contrary to: (1) the clinical HCV, cirrhosis and liver disease guidelines purportedly used/ followed by the defendants, (2) ADC chronic illness policy, D.O. 1101.07.1.1.3/Definitions, and (3) the standard of care established and generally accepted by and throughout the HCV, cirrhosis and liver disease medical/scientific community. (Pl. Dec. at PP 12, 17, 29-43, 54-56, 59-61) Conn. v. Mass., 282 U.S. 660, 674 (1931)

P13 Such conduct by prison officials is a clear violation of the Eighth Amendment. Estelle v. Gamble, 429 U.S. 97, 405 (1976) As a matter of law, the continuing deprivation of constitutional rights constitutes irreparable harm. Elrod v. Burns, 427 U.S. 347, 373 (1976)

P14 In addition, Plaintiff is threatened with the ultimate irreparable harm because of the nature of his chronic conditions will subject him to imminent death. Moreover, Plaintiff's HCV and cirrhosis have been left unmonitored and untreated for years. In fact, his chronic conditions have never been treated or monitored. (Pl. Dec. at PP 15, 16, 20, 21, 26-28, 44-46; Declarations)

B. The Balance of Hardships Favors the Plaintiff

P15 In deciding whether to grant TROs and preliminary injunctions, courts ask whether the suffering of the moving party if the motion is denied will outweigh the suffering of the non-moving party if the motion is granted.
Winter v. Natural Res. Def. Council, Inc., 555 U.S. 7, 24 (2008)

P16 In this case, the present suffering of the plaintiff and the potential loss of life are enormous. The emotional distress proximately caused by the uncertainty the plaintiff experiences as a result of denied treatment, the progressive nature of his chronic condition and, especially, the defendants' failure to regularly examine and monitor his serious medical needs is devastating to psychological well-being.

(Pl. Dec. at C.R.P.P. 62-64) Chalk v. U.S. Dist. Ct. Cent. Dist. of Cal., 840 F. 2d 701, 709 (9th Cir. 1988)

P17 The "sufferings" the defendants will experience if the court grants the orders is monetary loss, and discharging their constitutional duty to provide medical services and routine health care for Plaintiff's serious medical needs.

C. The Plaintiff is Likely to Succeed on the Merits

P18 The plaintiff has a great likelihood of success on the merits. The defendants refused to treat or monitor Plaintiff's chronic HCV after the 2009 diagnosis and, as a consequence, his HCV progressed/ caused cirrhosis. Although the loss of his spleen in 2013 was unrelated to Plaintiff's HCV, it nevertheless has a debilitating effect on his HCV and cirrhosis.

P19 It cannot be seriously disputed that HCV and cirrhosis present serious medical needs. According to the defendants' own policies and clinical guidelines for HCV and liver disease, the plaintiff is entitled to and needs "regular examinations and/or treatment." ADC A.O.901 Definitions ESLD/HCV ("Clinical guidelines have been developed for these conditions.")

P20 By non-party Nurse Practitioner Julie Shute's own admission, Plaintiff's ADC medical records indicate that the defendants—over the years—have not regularly monitored his HCV/cirrhosis. It appears that the defendants' plan of medical action is to simply allow things to run their course. (Pl. Dec. at PP44-52)

P22 The circumstances and fact-pattern present in this case demonstrate that Defendants Ryan, Pratt, Corizon and Schmid have been, currently are, and will continue to show deliberate indifference to Plaintiff's life-threatening and serious medical needs. Jett v. Penner, 439 F.3d 1091, 1096 (9th Cir. 2006)

D. The Relief Sought Will Serve the Public Interest

P23 In this case, evidence has been presented that the defendant not only failed to monitor and/or treat the plaintiff's HCV but by unwritten policy, practice and long-term custom consciously refuse to either regularly examine, monitor or treat any ADC prisoners.

P24 In this case, the grant of relief will serve the public interest because—it is always in the public interest for prison officials to obey the law, prevent the ongoing violation of a party's constitutional rights, and reduce the threat of a health hazard in its prisons. Melendres v. Arpaio, 695 F.3d 990, 1002 (9th Cir. 2012)

P24 Moreover, "the public has a strong interest in the provision of constitutionally-adequate health care to prisoners." McNearney v. Washington Dept. of Corrs. C11-5930 RBL/KLS, 2012 WL 3545267, at *14, *16 (W.D. Wash. June 15, 2012)

E. The Plaintiff Should Not Be Required To Post Security

P25 Usually a litigant who obtains interim injunctive relief is asked to post security. Rule 65(c), Fed. R. Civ. P.

P26 However, the plaintiff is an incarcerated and indigent prisoner unable to post security. The court has discretion to excuse the security requirement upon a showing of good cause. In view of the serious medical danger confronting Plaintiff, the court should grant the relief requested without requiring the posting of security. Elliott v. Kiesewetter, 98 F.3d 47, 60 (3rd Cir. 1996); Molton Co. v. Eagle Pitcher Industries, 55 F.3d 1171, 1176 (6th Cir. 1995)

CONCLUSION

For the foregoing reasons, the court
should grant the motion in its entirety.

RESPECTFULLY SUBMITTED on this
28th day February, 2018.

Wellington J C
Wellington Spencer Coppess
Plaintiff, In Pro Per

10.

Wellington S. Coppess #102400
ASPC-C Tucson/Santa Rita Unit
PO BOX 24401
Tucson, AZ 85734-4401
Plaintiff, In Pro Per

In The United States District Court
For The District Of Arizona

CV18-0118 TUCJASPSOT

Wellington Spencer Coppess,
Plaintiff,

No.

v.

Order To Show Cause For
A Preliminary Injunction
And A Temporary
Restraining Order

Charles L. Ryan, et al., Defendants.

Upon the complaint, supporting
declaration of plaintiff, and memorandum
of law submitted herewith, it is:

ORDERED that defendants Charles L. Ryan,
Richard Pratt, Corizon Health, Inc., and Benjamin
Schmid show cause in room _____ of the
United States Courthouse, 405 W. Congress
St. Ste. 1500, Tucson, AZ 85701-5010

1.

on the day of , 2018, at o'clock,
why a preliminary injunction should not
issue pursuant to Rule 65(a), Fed.R.Civ.P.,
enjoining the defendants, their successors
in office, agents, contractors and all other
persons acting in concert and participation
with them from denying, failing or refusing
to approve and provide Wellington Spencer
Coppess direct-acting antiviral Hepatitis C
virus treatment, and to assess whether a
liver transplant is required.

IT IS FURTHER ORDERED that effective
immediately, and pending the hearing and
determination of this order to show
cause, the defendants Charles L. Ryan,
Richard Pratt, Corizon Health, Inc., and
Benjamin Schmid and each of their
officers, agents, employees, contractors,
and all other persons acting in concert
and participation with them are
restrained from failing and refusing
to provide Wellington Spencer Coppess

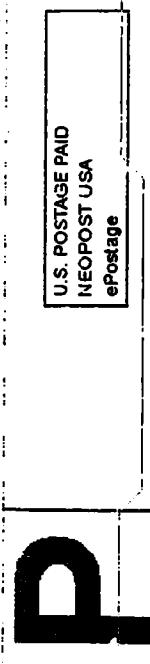
with the proper medical services needed to determine the severity of cirrhosis, distinguish whether or not he has compensated or decompensated liver disease, and to test him for hepatocellular carcinoma and portal hypertension.

IT IS FURTHER ORDERED that the order to show cause, and all other papers attached to this application, be served on the aforesaid Defendants by _____.

Dated:

United States District Judge

Copies Wellinton #108400
Arizona State Prison - Tucson
Santa Rita Unit 3-C-1
P.O. Box 24401
Tucson, AZ 85734



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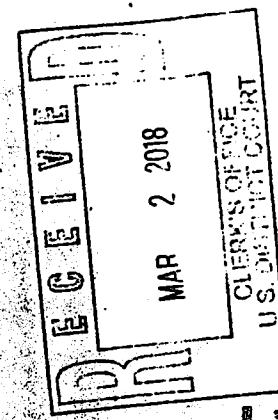
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TUCSON AZ 85701-5010

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