IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

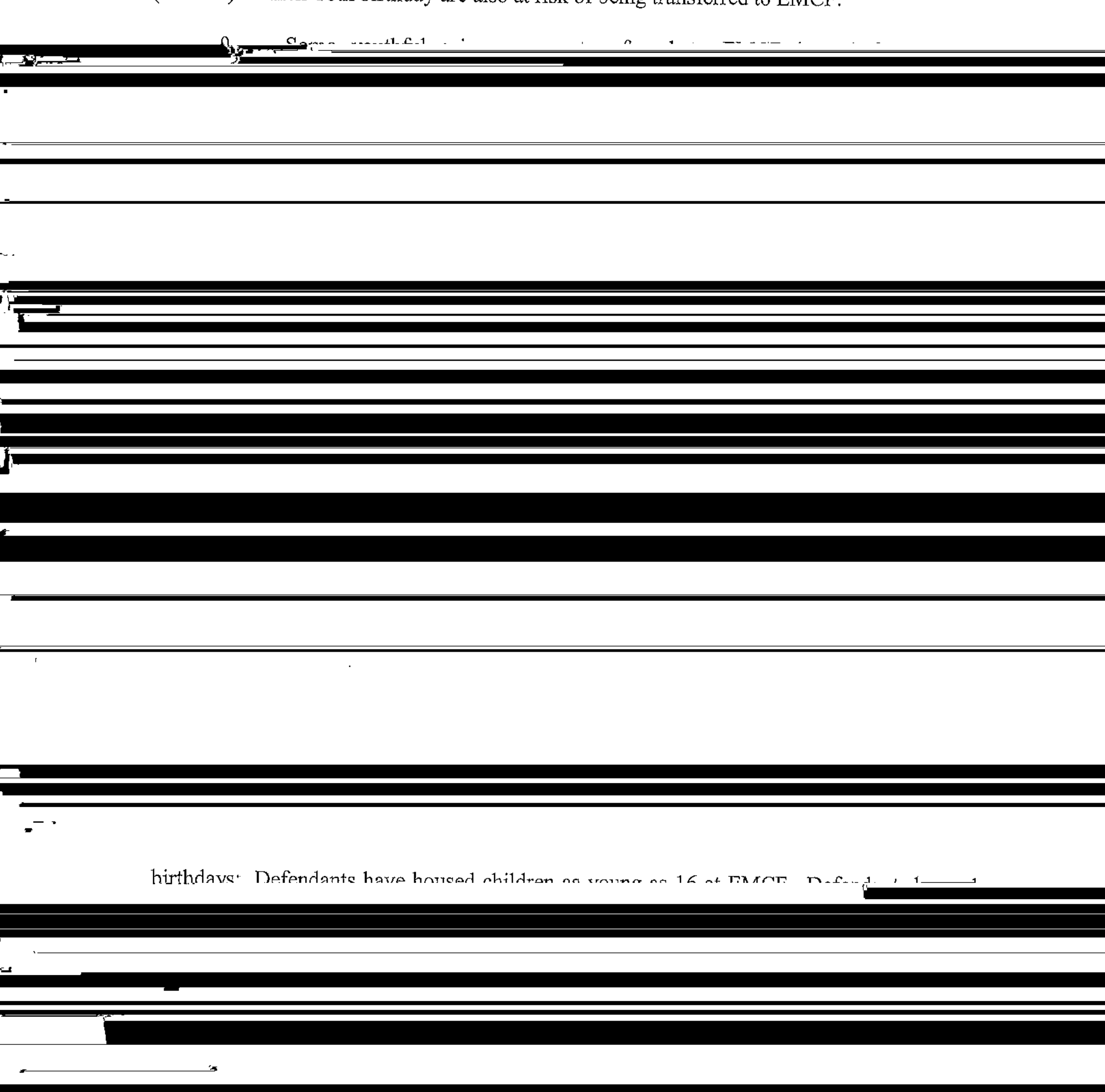
SOUTHERN DISTRICT OF MISSISSIPPI

health, and their limbs, their eyesight, and even their lives. Defendants, high-ranking officials of the Mississippi Department of Corrections (MDOC), who are responsible for the health and

gross acts of self-mutilation, including electrocution, swallowing shards of glass...

tearing into their flesh with sharp objects. Defendants deny prisoners even rudimentary mental health treatment and, last year, reduced access to psychiatric care.

monitoring by court-appointed experts following findings of unconstitutional conditions of confinement.[2] Teenagers with mental illness who "age out" of MDOC's Youthful Offender Unit ("YOU") on their 18th birthday are also at risk of being transferred to EMCF.



birthdays. Defendants have housed children as young as 16 at EMCF.

## JURISDICTION

12. This action arises under the United States Constitution and 42 U.S.C. § 1983

Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3)

## VENUE

13. Venue in this Court is proper pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events and omissions giving rise to the claims of the Plaintiff class occurred in this district.

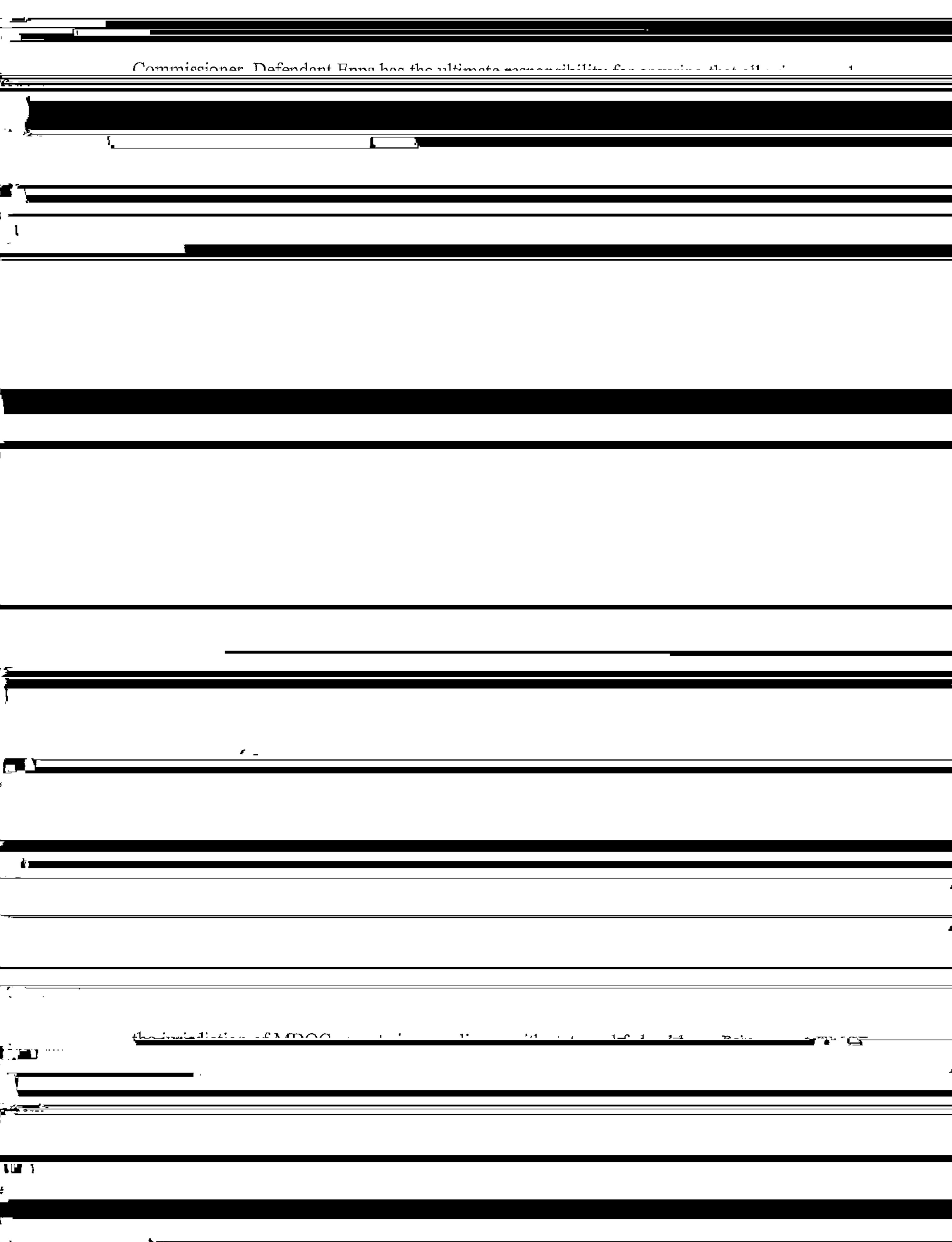
## PARTIES

### NAMED PLAINTIFFS

14. All of the Plaintiffs are currently incarcerated at FMCF and, as set forth in

herein, is at a substantial risk of serious harm from malnutrition.

19. Plaintiffs ANTHONY EVANS, DEXTER CAMPBELL, and JOSEPH



Commissioner. Defendant Epps has the ultimate responsibility for [illegible]

directly to Commissioner Epps. Dr. Perry's duties include being responsible for all specialty

inadequate care, and reviewing summaries of the deaths of prisoners who die in custody. Dr.

example, in May-June 2012, Leo Laurent did not get a shower for weeks—until the day before a visit from Plaintiff's Counsel. In September 2012, prisoners on Unit 5C had no showers for three weeks—until the day before a visit from Plaintiffs' Counsel. Conditions worsened considerably during the most recent lockdown, which began in April 2013 and lasted for three weeks following a deadly riot at another MDOC facility.

29. Toilets are left broken for long periods of time. Plaintiff Courtney Galloway was forced to use a trash bag for a toilet for over a month; Leo Laurent had to do so as well. Many of the toilets in Galloway's current unit, considered the "honor pod," leak feces. Bobby Trotter,

32. Some prisoners in Units 5 and 6 are subjected to constant bright artificial light around the clock.

33. The noise in these units is often deafening. Prisoners bang and kick the metal cell

described it as "no man's land." Prisoners resort to setting fires to try to get staff attention

though security officers often simply ignore the fires and allow them to burn themselves out.

37. Some security staff beat and Mace prisoners in solitary confinement [illegible]

prisoners are fully restrained. Prisoner-on-prisoner stabbings and beatings are frequent because the locking mechanisms on the cell doors can readily be defeated, and some officers are complicit in unlocking doors to allow violence to occur. Many prisoners in solitary confinement bear scars as a consequence.

**"Some Guys Can't Take It Anymore."**

38. Years of study have demonstrated the adverse impact of long-term solitary

paranoid schizophrenia. One prisoner is reported not to have left his cell in months; others scream, bang on doors, or talk to themselves. As discussed below, there is little access to mental health care for these prisoners.

45. The light is constantly on in Mr. Dockery's cell and has been so since February 2013. The flush button on his toilet is missing. Mice crawl out of the toilet and into his cell at night.

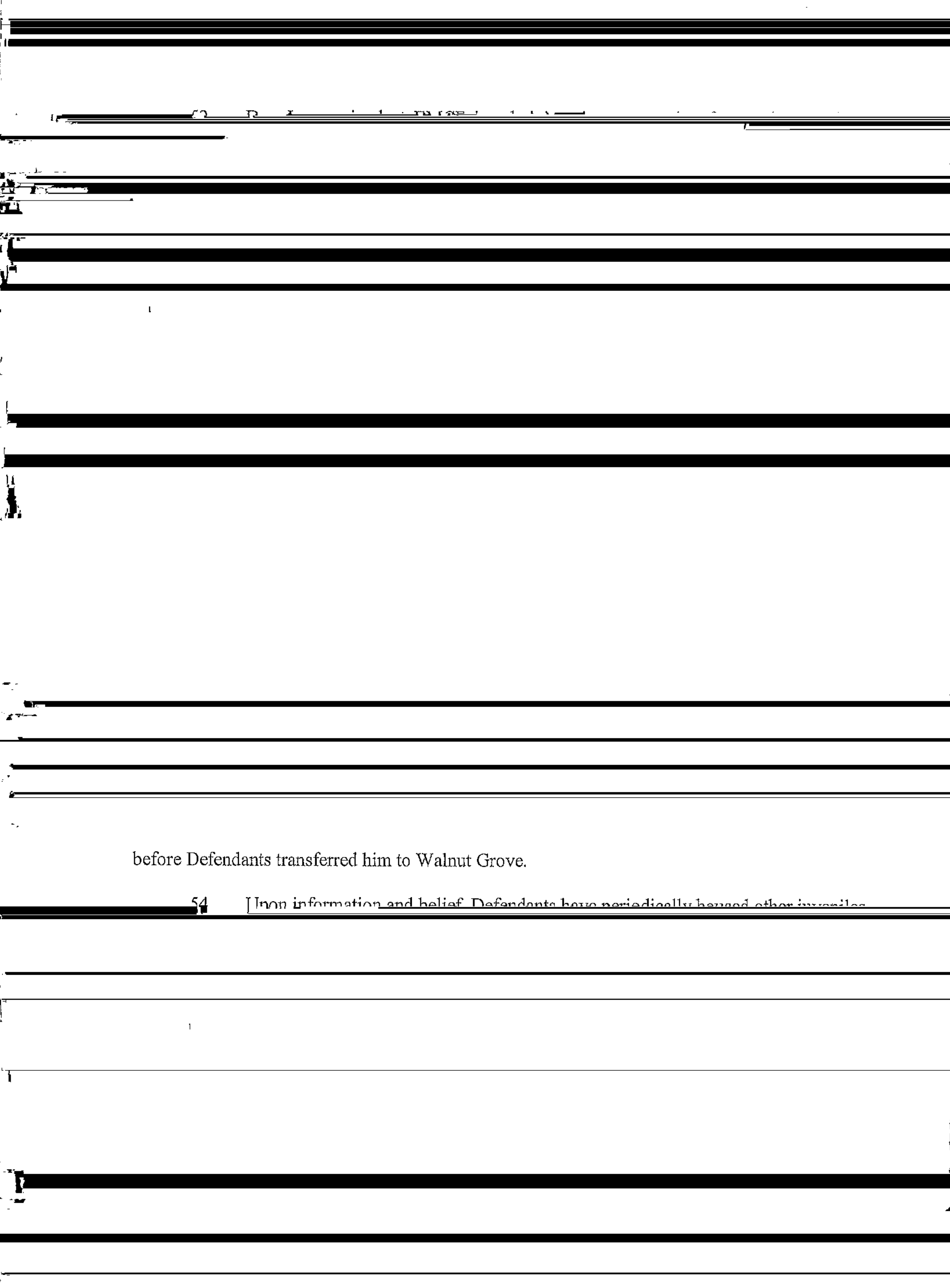
46. Fires are a common occurrence in solitary and the air is thick with smoke. In March 2013, Mr. Dockery told an officer that he could not breathe due to the smoke. The officer

FMCF. A mental health clinician noted that he

getting very little sleep since arriving at the facility.

49. Despite his age and vulnerability, Doe Jr. was housed in a cell with a foul-

smelling 24-year old man. Doe Jr. was later moved to an intake cell, whose



before Defendants transferred him to Walnut Grove.

54. Upon information and belief, Defendants have periodically housed other juveniles

61. The unit is dangerously understaffed. He has been left wet and naked in the shower for hours at a time because no officers were available to escort him back to his cell.

**Rotheleo Dixon**

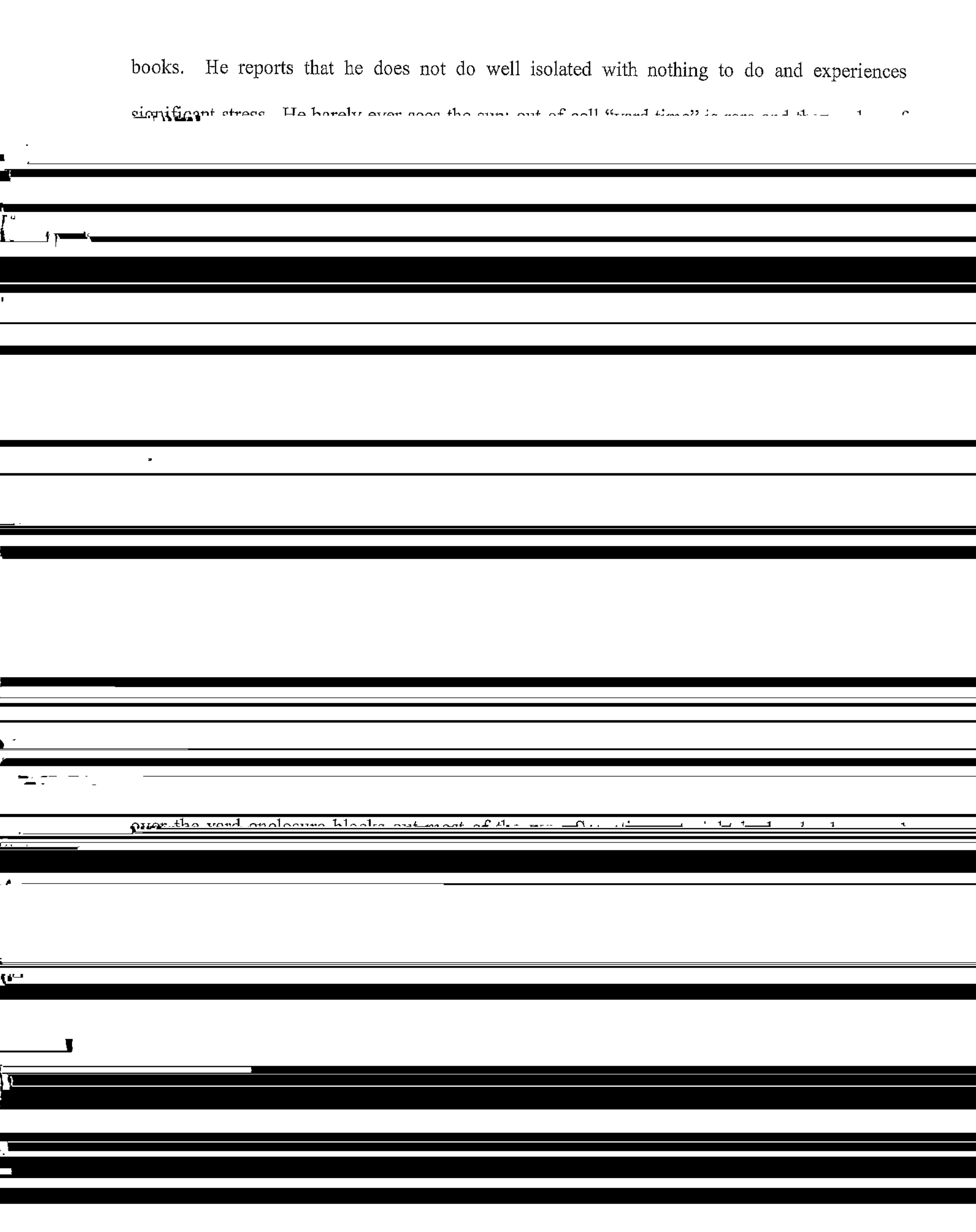
62. Rotheleo Dixon has symptoms of serious mental illness. His cell wall and toilet

leaked and formed a puddle that bred worms and bugs. He has not received any supplies to clean his cell since October 2012. He reports that most of the time there is no staff on his unit, especially between 6pm and 7am. When problems arise, prisoners set fires to try to get the officers' attention. However, frequently, staff will ignore the fires; fires sometimes burn for 20 minutes before being extinguished. The resulting smoke makes it hard to breathe and security officers refuse to ventilate the unit. There is no programming available to him and he has nothing to do except sit idly in his cell.

**Derrick Hayes**

63. Plaintiff Derrick Hayes has a documented history of serious mental illness. He has been locked in long-term solitary confinement at various MDOC facilities for approximately eight years. There is no mirror in his cell and the light in his cell has not worked for over seven months. During the day, there is barely enough light to read. At night, his cell is pitch black.

books. He reports that he does not do well isolated with nothing to do and experiences



## The Death of Richard Roe[6]

behavior, and seizure disorder. He also suffered from

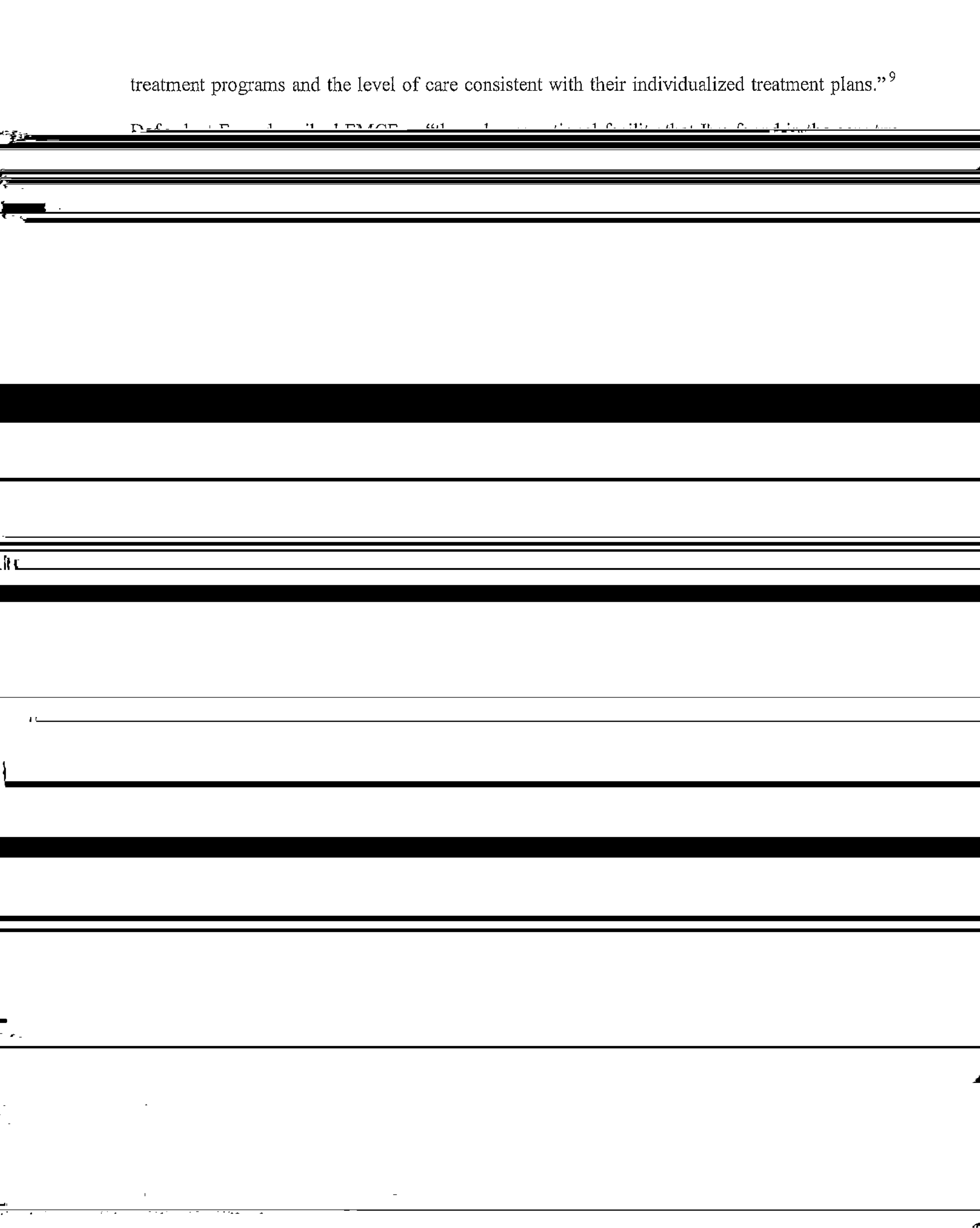
Roe out of his cell. By that time, he was non-responsive and cyanotic. He was taken, his hands

and feet bound by zip-ties, to the hospital where he was pronounced dead.

72. For several days after Mr. Roe's death, medical staff continued to "document" in

the daily segregation log that Mr. Roe appeared to be "in good health and [illegible]."

treatment programs and the level of care consistent with their individualized treatment plans."[9]



79. Dr. Kupers described Unit 3, which is intended to provide the highest level of psychiatric care available in the MDOC system:

> ...[T]here is almost no mental health treatment going on, and the men are mostly idle . . .

mutilation, routine suicide attempts, psychological decompensation, and several completed suicides.

84. On October 14, 2011, staff found prisoner D.C.[13] dead, hanging from a braided bed sheet in his solitary confinement cell.

caught climbing the fence of a recreation cage. According to one witness, T.H. threatened to kill himself if moved to solitary.

87. On January 1, 2012, T.H. hanged himself in his cell in solitary confinement.

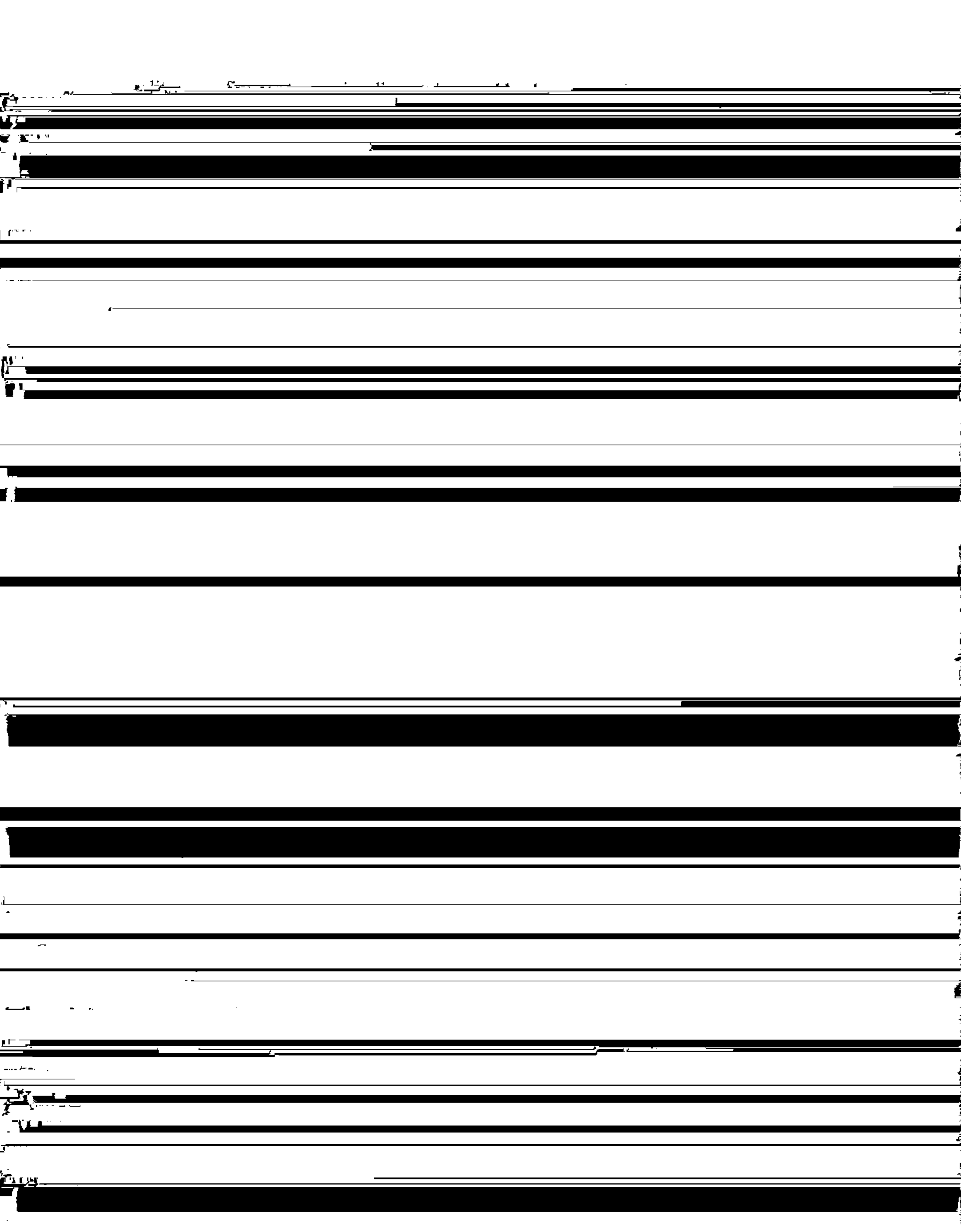
the morning. A resulting incident report describes the events following the discovery of his body:

indifferent to the serious medical and mental health needs of the offenders."[17] However, only a few weeks after the Court's sharp criticism, MDOC awarded Health Assurance the contract to provide medical and mental health care services to prisoners at EMCF.

reduced the amount of psychiatric care available to patients. GEO had provided one full-time psychiatrist to treat the entire EMCF population: A level that Dr. Kupers had warned Defendants was inadequate. Yet, in the new contract with Health Assurance, Defendants reduced psychiatric staffing to require that a psychiatrist be on-site only twice a week. Not surprisingly, one prisoner

seriously mentally ill prisoners at EMCF. Upon information and belief, Defendants' current

MDOC prisons, even though there is no prison in Mississippi that currently provides



while in Unit 3 Mr. Pierce stood at the top of the stairs asking for help. Mr. Pierce suffers from agoraphobic symptoms and the other prisoners were causing him stress. He was given a "no-

106. Mr. Evans experiences troubling auditory and visual hallucinations. He sees smoke, flying objects, and formless beings that eventually take on a human form. He has

[illegible]

conversations with these beings, sometimes disagreeing with them when they tell him not to do things. At times, he sees deceased family members and talks with them. Often he [illegible]

walk on to the next cell. At one point, after not being able to see a psychiatrist to discuss his symptoms, Mr. Osborne spoke with a counselor in her office. He recalls that it was "like talking to a wall. They just chuck you off." Mr. Osborne continues to suffer from anxiety attacks.

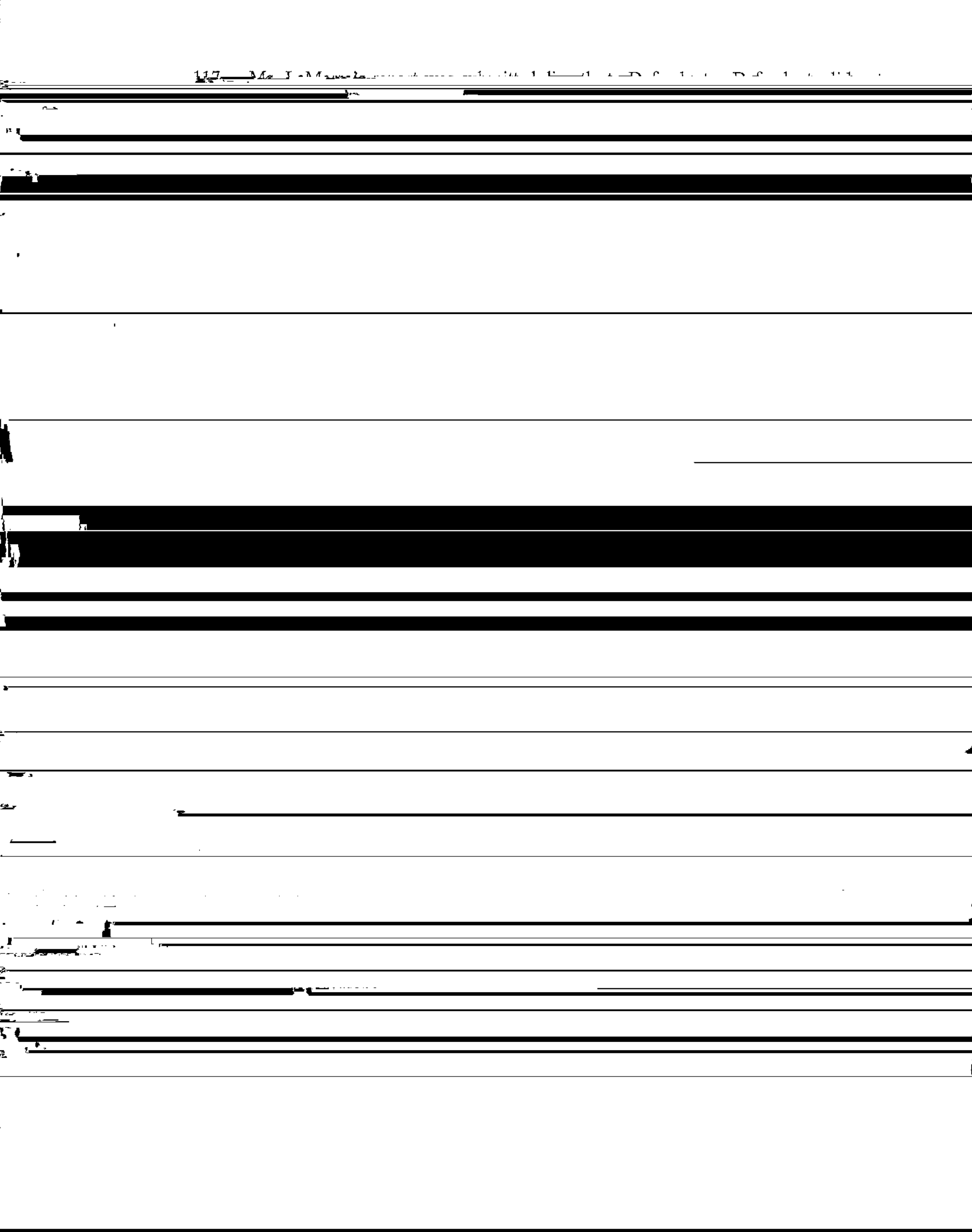
**Dexter Campbell**

110. Plaintiff Campbell is a veteran of the United States Air Force and has carried

that he would start receiving two new psychotropic medications. Mr. Brewer did not see a medical doctor or psychiatrist before receiving these new medications.

## MEDICAL CARE

113. Medical care at EMCF is provided by a for-profit contractor and has long been so grossly substandard as to put prisoners at grave risk of loss of limbs and of death. Defendants



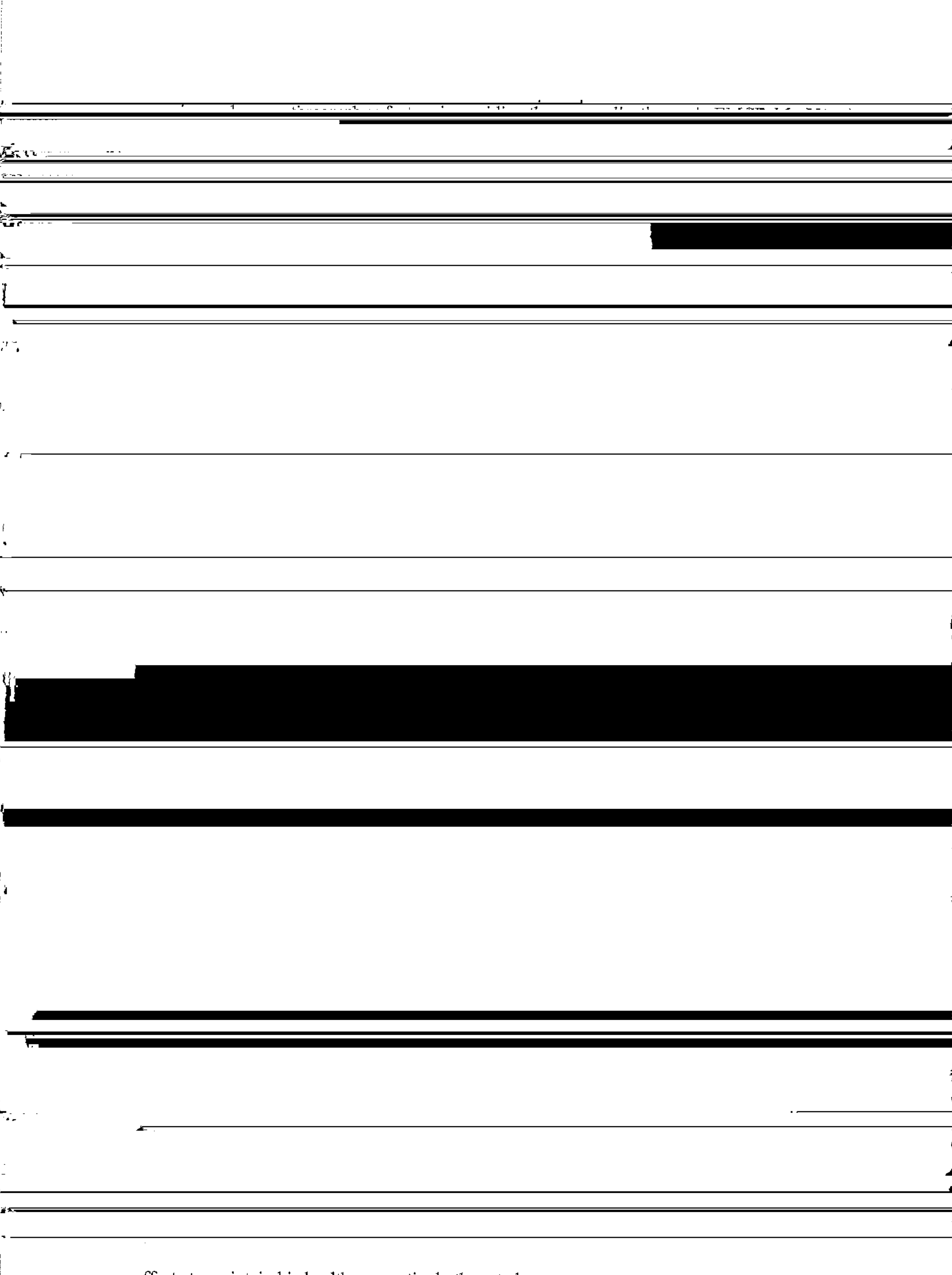
arrangements to assure medication continuity during the transition. Even during the recent multi-week lockdown in April 2013, staff told prisoners in Unit 6 that they would not receive their evening medications on a particular day due to the lockdown.

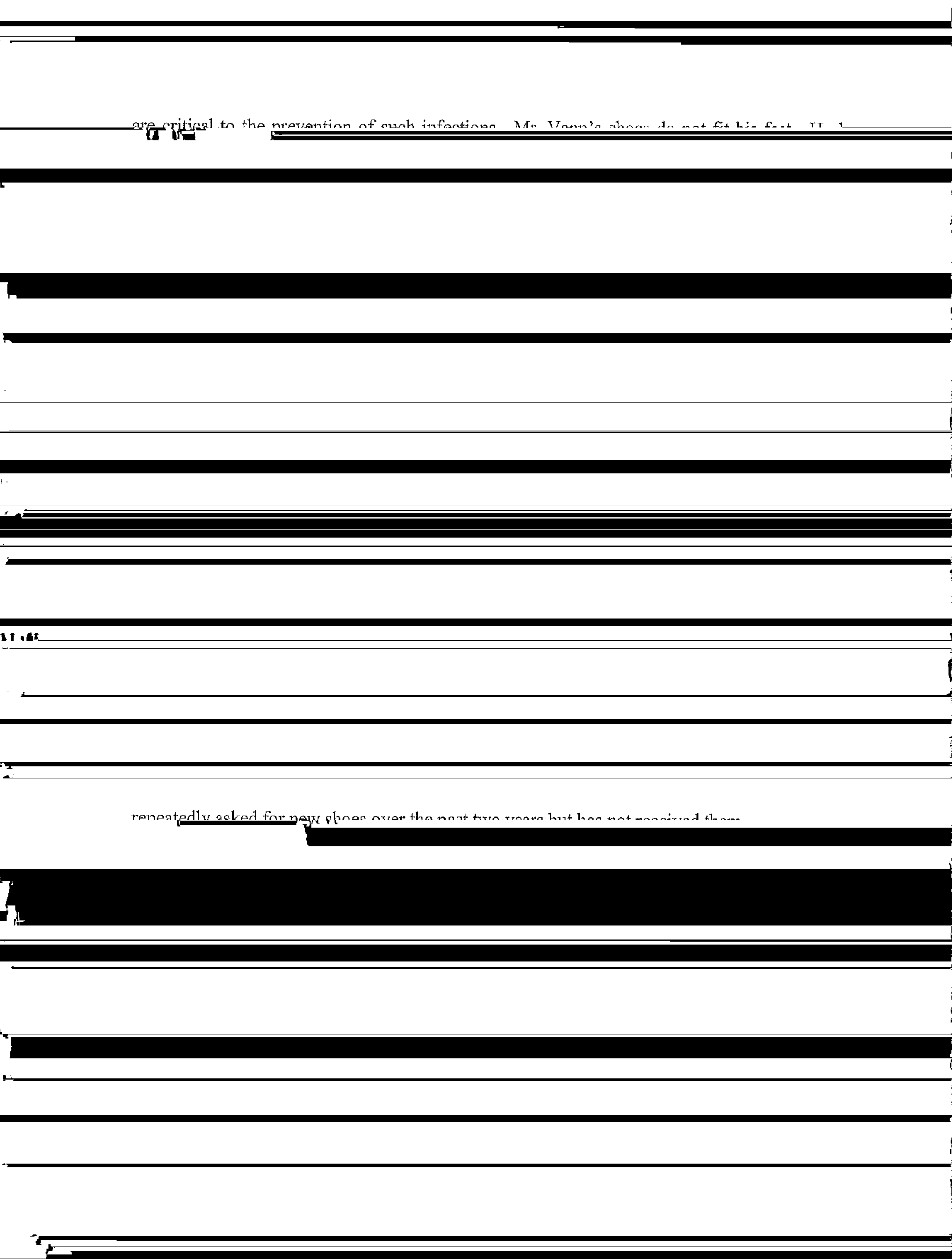
122. On July 19, 2012, Plaintiff John Barrett, age 58, submitted a request to health

"your problems are all chronic. Please follow up with Dr. -- on the next visit. I no longer manage pain."[21] As of three months later, Mr. Barrett had yet to see the "pain doctor."

**Failure to Care for Serious Medical Needs: Oral and Eye Care**

125. In her 2011 report, Ms. LaMarre concluded "...that inmates do not have timely





are critical to the prevention of such infections. Mr. Vann's shoes do not fit his feet. He h

repeatedly asked for new shoes over the past two years but has not received them

2012, he received no eye drops whatsoever. In late 2012, Mr. Lindsey began

drops again, but only on an intermittent basis.

139. In February 2012, he was taken to an eye doctor who told him that he needed to see a glaucoma specialist. He was not taken to one. In November 2012, he was taken to an eye doctor who, once again, told him that he needed to see a glaucoma specialist.

140. Mr. Lindsey was not taken to a specialist and his vision continued to worsen. In

Consequently, Mr. McAbee is often not aware of how close he is to developing full-blo[illegible]

AIDS.

146. When he finally did see an outside specialist, he was prescribed antiretroviral medications, including Norvir and Prezista. After starting on these medications, Mr. McAbee [illegible]

developed a painful, boil-like rash on his body. He submitted three or four requests to medical seeking help but received no response. Finally, Mr. McAbee decided to stop taking the medications and told the medication nurse his reasons. He has received no medical follow-up to address his refusals. This falls well below the standard of care.

150. Over the next several weeks, Mr. Neihaus submitted multiple sick call requests but received no response. He personally asked officers, case managers, and unit managers to get

him medical help, but he received none. [illegible]

hard knot on his right testicle about the size of a marble. On July 2, MDOC [illegible]

so concerned that he called the prison to see if Mr. Neihaus could see a doctor right away. Prison officials refused.

155. Anxious and in pain, over the next three weeks, Mr. Neihaus repeatedly asked prison officials to show him the results. Nothing happened. On October 17, Mr. Neihaus saw the prison physician, who told him that the knot on his testicle appeared to be cancer. A urologist confirmed the diagnosis of testicular cancer. By now, the cancer had metastasized and spread into his abdomen.

156. On October 26, his testicle was surgically removed. Two weeks later, the Health Assurance doctor attempted to convince Mr. Neihaus to withdraw his grievance because all of his problems had been addressed.

157. On December 10, Mr. Neihaus received his first dose of chemotherapy. The prison failed to regularly provide him with the anti-nausea medication he needed to combat the side effects. On January 4, 2013, Mr. Neihaus was transferred to the South Mississippi Correctional Institution (SMCI). Fortunately, he recently completed chemotherapy.

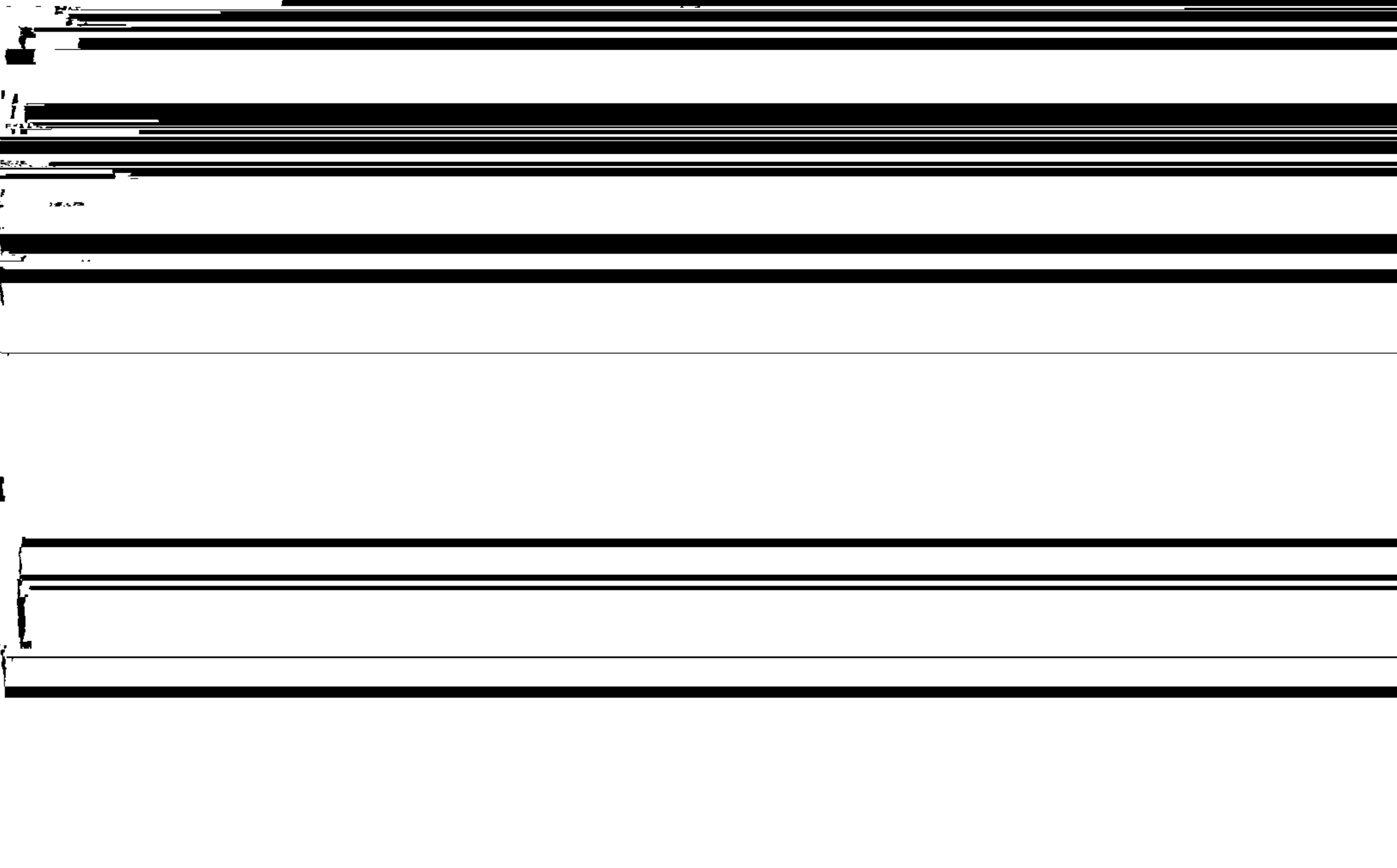
**Earnest McWilliams**

158. Earnest McWilliams has an established history of serious mental illness, and has taken antipsychotic medications such as Prolixin. Despite his mental illness, he has been housed for extended periods of time in long-term solitary confinement.

159. On September 28, 2011, four prisoners attacked Mr. McWilliams, stabbing him repeatedly while in a recreation cage. [illegible]

160. He sustained multiple stab wounds to his head, neck, back, and both hands. At the emergency room, a trauma surgeon was called in to repair and suture his hands. Additional sutures were required the following day.

161. For the next two months, Mr. McWilliams was isolated in a cell by himself. He was locked down for 24 hours per day without out-of-cell recreation. He was not given a mattress; he slept on the floor with only two blankets and a pillow. Medical records strongly suggest that his mental health suffered dramatically. Although housed near the medical unit, medical records show that Mr. McWilliams received only minimal care. His bandages were changed infrequently.



164. A few days later, Mr. McWilliams was transferred to another facility where medical staff was horrified by his condition. The surgeon who performed the amputation told

arterial aneurysms, or bulges of the artery that serves the kidneys. Renal artery aneurysms, if ruptured, are fatal. Trauma and elevated blood pressure can cause ruptures.

169. Staff at the hospital told Mr. Coleman that he needed surgery and should be housed in a medical environment. The facility physician advised him to avoid stress. However, [illegible]

170. The EMCF physician's treatment plan stated "refer to vascular surgeon as an emergency." An appointment was available for the following Monday but the appointment had "not been approved by GEO at this time."

171. Mr. Coleman was later moved to a medical isolation cell and then back to solitary confinement. In both environments, he suffered from nearly complete social isolation. At no time was he transferred to a facility with an infirmary equipped to address his medical needs.

**Willie Hughes**

176. Willie Hughes suffers from diabetes. As a diabetic, Mr. Hughes is at risk for

entire limbs, especially if proper care is not provided. In addition, improper podiatric care can result in infected foot ulcers, which create an additional risk for amputation.

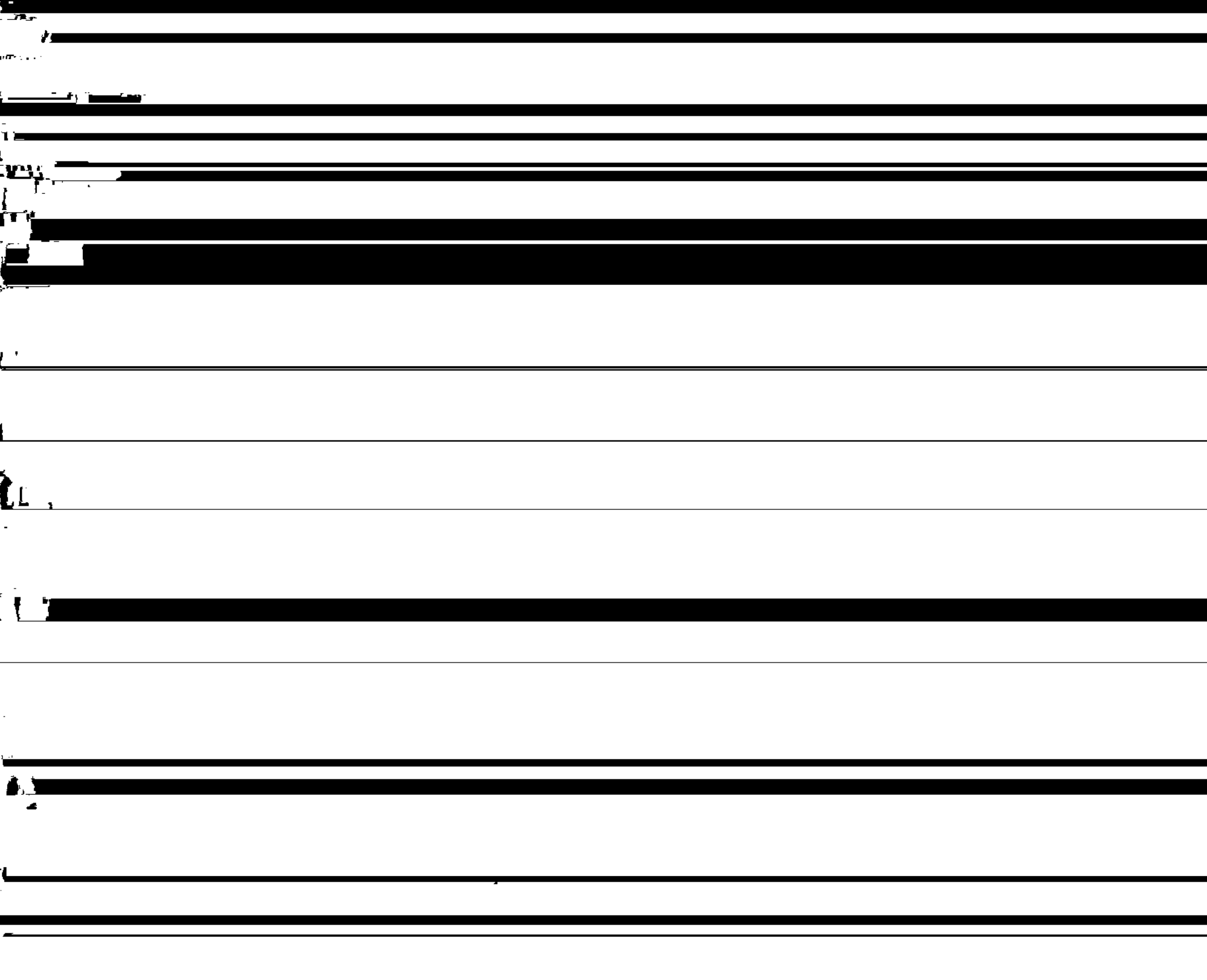
177. In the summer of 2012, Mr. Hughes developed a laceration from leg irons that

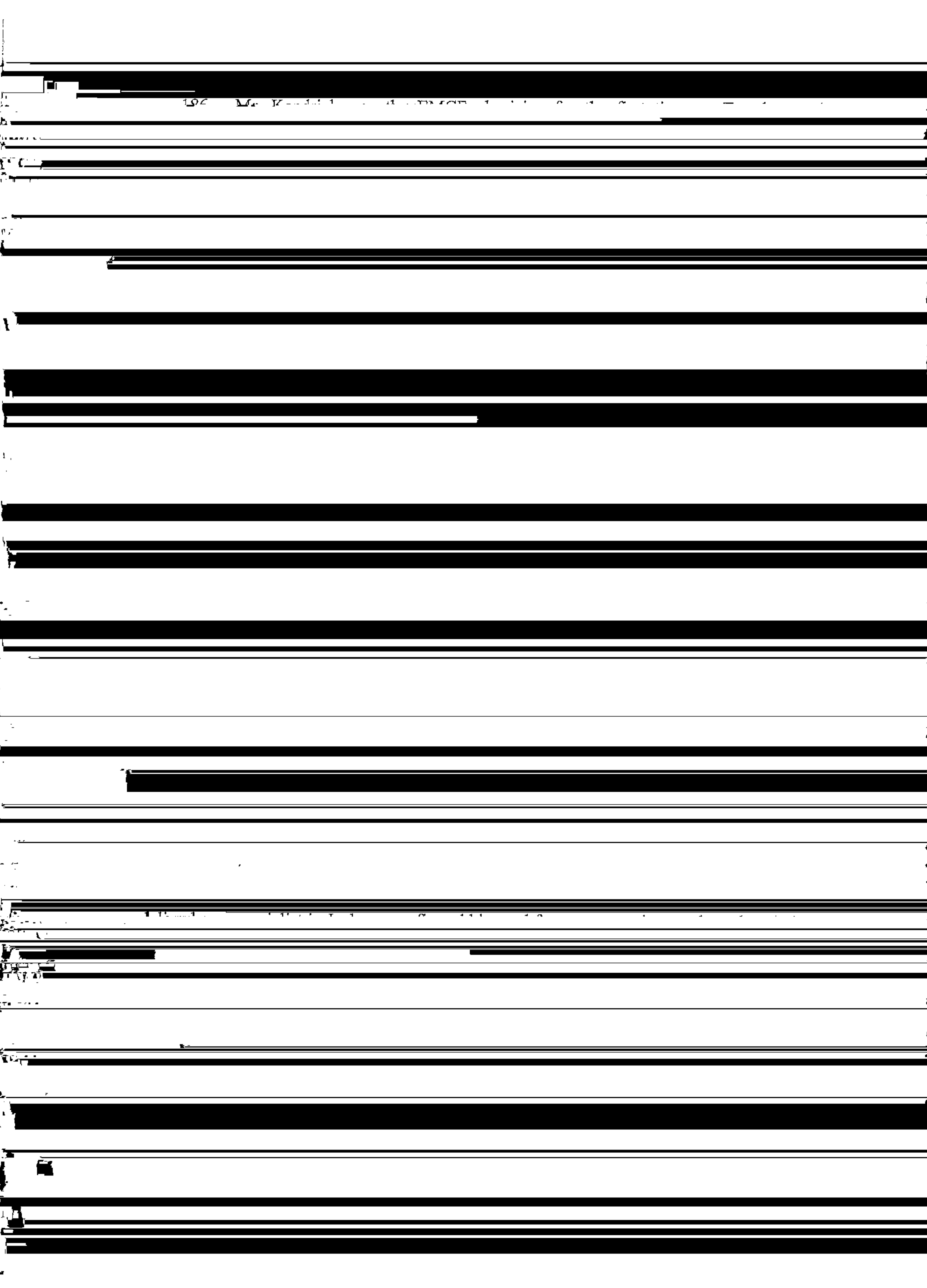
seen again by the doctor until several days later and had still not yet seen a wound care specialist. The doctor ordered another round of Bactrim even though one of the wound cultures indicated that the infection was resistant to that particular antibiotic.

**James Kendrick**

182. James Kendrick is held in long-term solitary confinement.

183. On Thursday March 21, 2013, he noticed a pimple on his arm. By the next day, the pimple had turned black and grown to the size of a nickel. He informed correctional officers



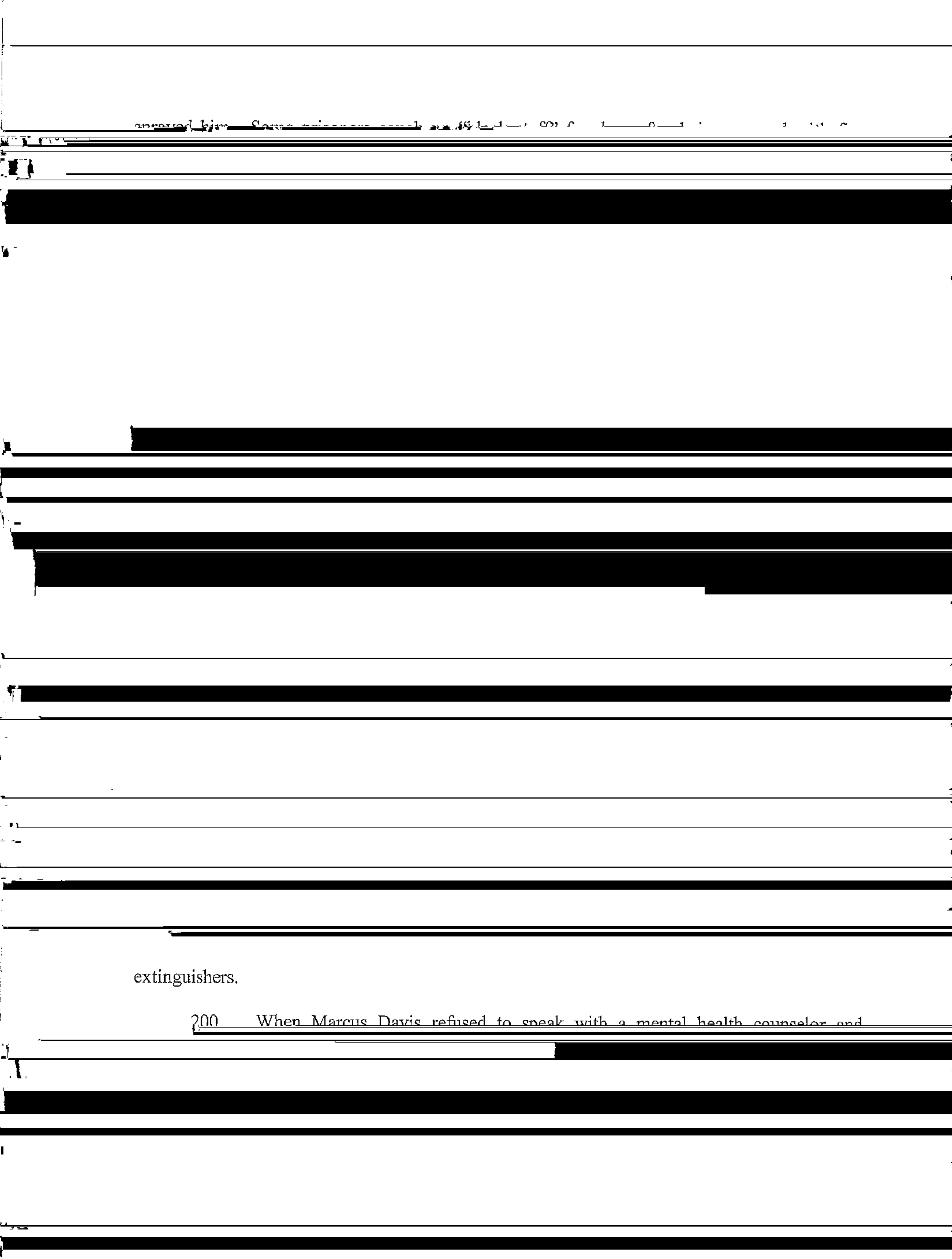


191. Upon information and belief, newly hired staff at EMCF receives only three weeks of training before starting on the job. MDOC does not supervise this training. Upon

ventilation to provide any relief from the burning. Prisoners needing medical care following assaults or use-of-force incidents do not routinely receive assessment or treatment.

196. On March 16, 2013, officers walked through Karl Williams' cell block closing the tray slots on each prisoner's door. Mr. Williams asked if he could leave his tray slot open for [illegible]

Williams asked again, the officers slammed the slot shut on his hand.

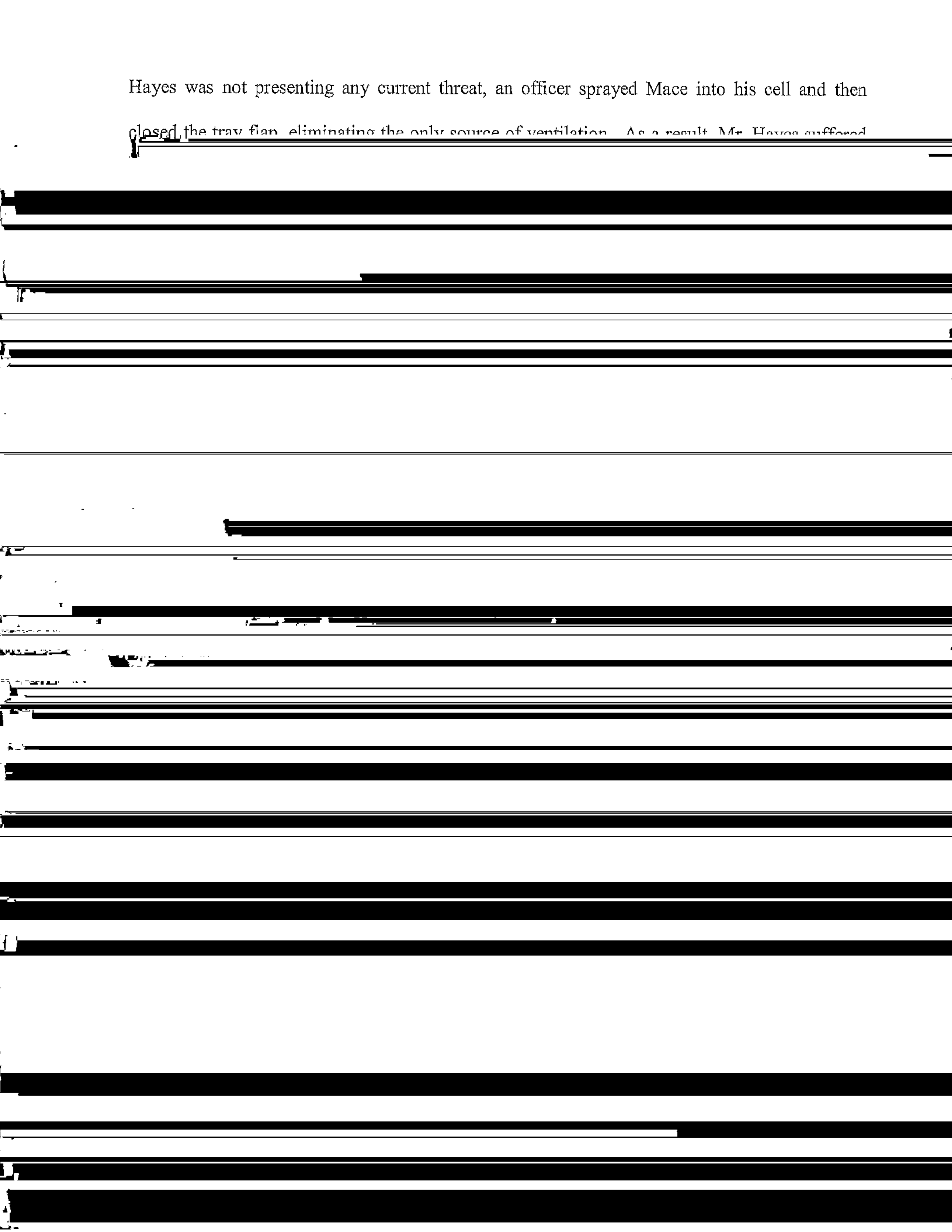


sprayed him. Some prisoners ...

extinguishers.

200 When Marcus Davis refused to speak with a mental health counselor and

Hayes was not presenting any current threat, an officer sprayed Mace into his cell and then closed the tray flap, eliminating the only source of ventilation. As a result, Mr. Hayes suffered



**Anthony Evans**

[illegible]

seizure disorder. While in solitary confinement he felt a seizure coming on and threw his tray through the tray slot in an effort to get officers' attention. An officer, who was in the process of spraying another prisoner with Mace, stopped what he was doing and emptied the remainder of the gas canister into Mr. Evans' cell. The officer called him a "bitch" before closing the tray slot

against the prisoner and against his family members in the community. Family members of prisoners are also extorted by use of threats of violence against prisoners at EMCF.

**Staff Actively Facilitate and Promote Violent Attacks**

210. Some correctional staff at EMCF actively arrange and enable attacks on prisoners.

**Phillip Fredenburg**

211. On September 5, 2012, Mr. Fredenburg was brutally assaulted. Several officers

were complicit in or facilitated the assault.

212. That morning, two officers escorted Mr. Fredenburg from the showers and locked

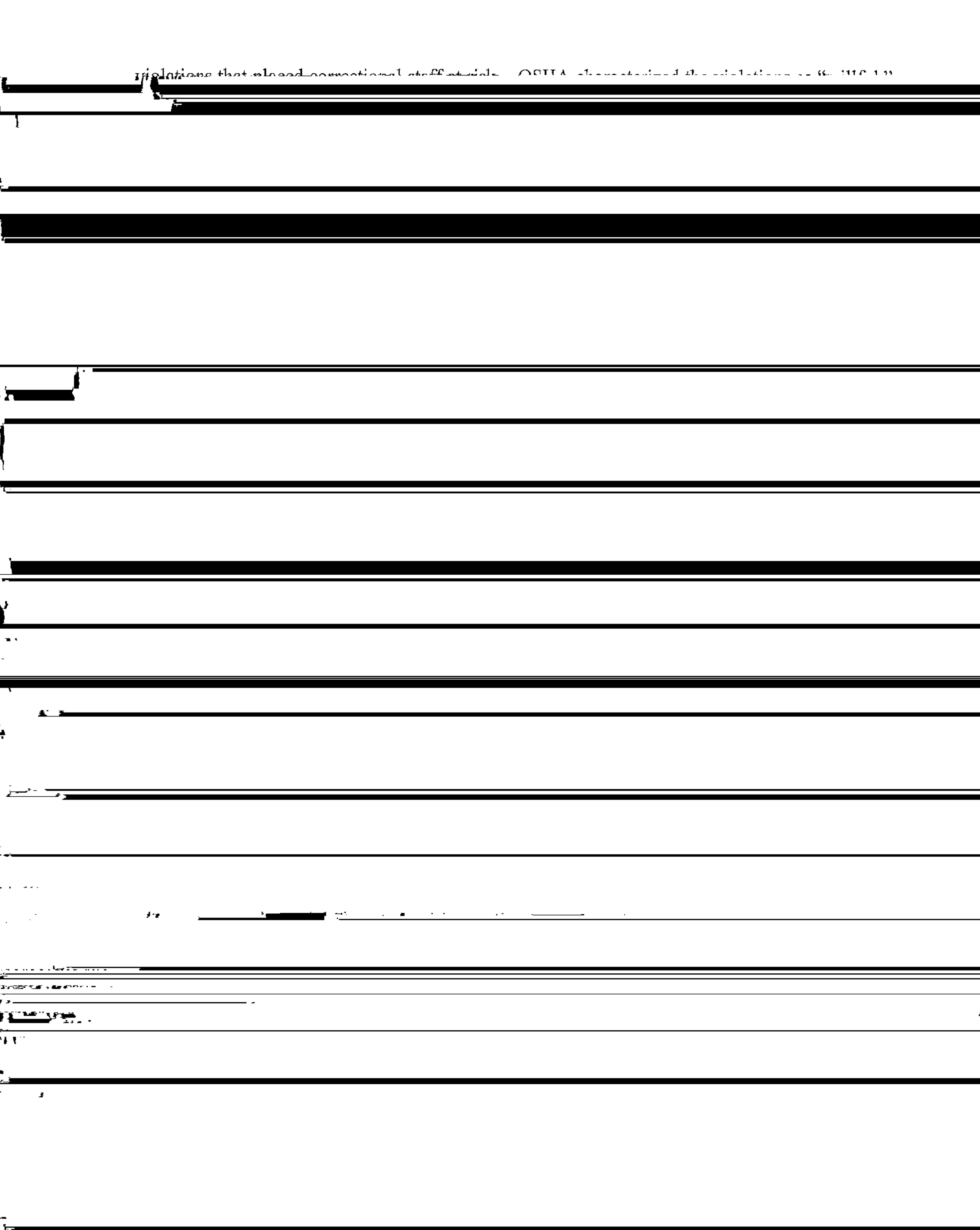
him in his cell. Shortly after, the officers escorted another prisoner

fires in front of his cell to get help. Finally, he was taken to see the doctor, who ordered x-rays of his skull to check for a broken nose.

218. On June 19, 2012, in another example of officer involvement in prisoner violence, an officer in the solitary confinement unit escorted four prisoners into a vestibule area between housing zones and opened a door allowing ten rival prisoners into the vestibule. Predictably, a mass altercation erupted and one prisoner was stabbed in the spine before the fight was quelled. Security footage shows the officer laughing and possibly offering instructions to one group of prisoners before the attack began.

219. A subsequent investigation concluded that "the preponderance of evidence"

violations that placed correctional staff at risk. OSHA characterized the violations as "[illegible]"



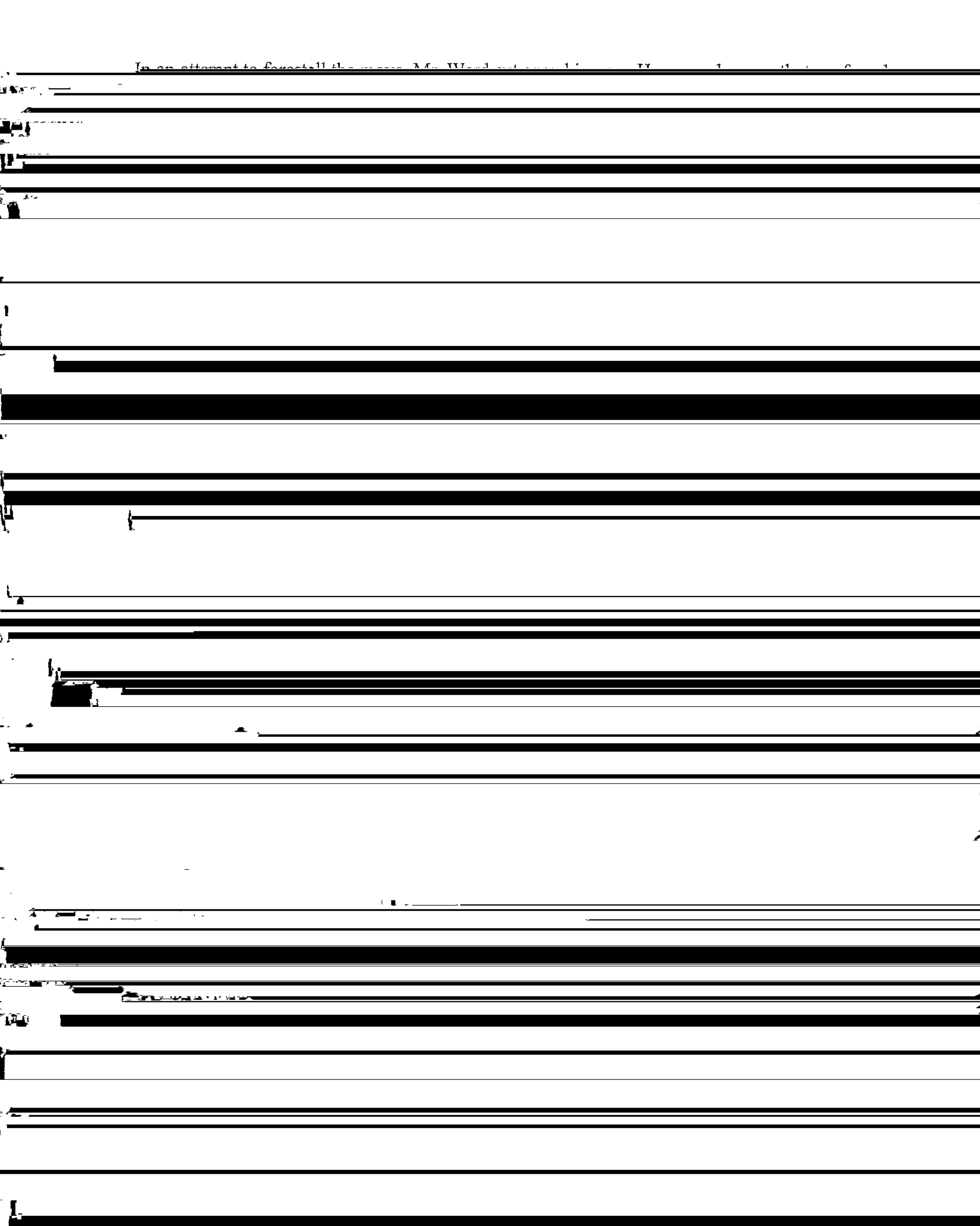
**William Easterwood: A Victim of Robbery, Rape, and Beatings**

hours, Mr. Easterwood was beaten, held at knife-point, and repeatedly raped.

228. When Mr. Easterwood arrived on the zone, he was met by eight prisoners who

escorted him into an empty cell where they beat and robbed him. His assailants told him that if he reported the beatings, they would place him on KOS (kill-on-sight) status. Later, he was

In an attempt to forestall



235. MDOC has long been aware of these conditions. Results of a March 28, 2011

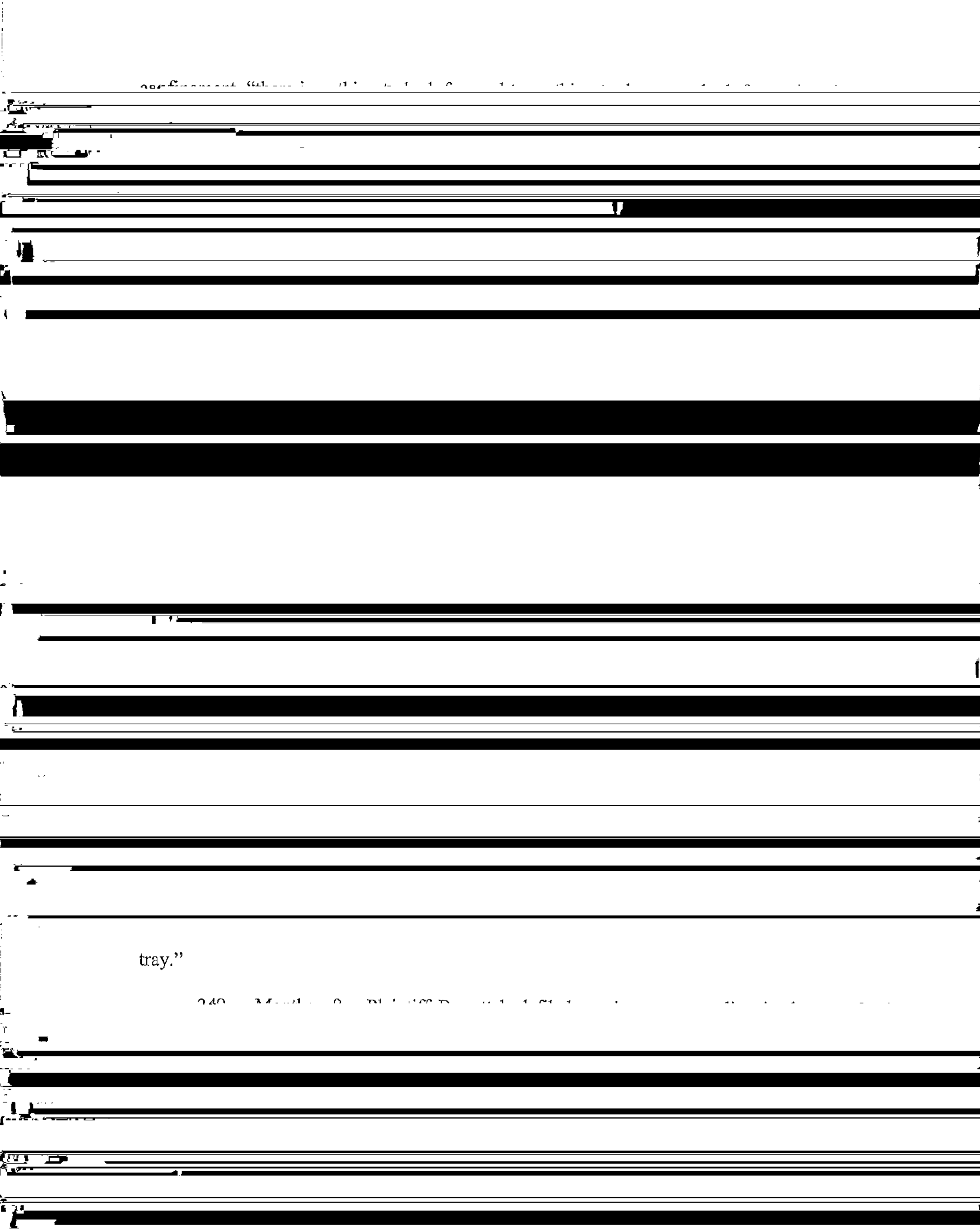
became ill and began to vomit. He asked for dry clothing and a dry mattress but did not receive them until more than two days later. He also asked for cleaning supplies, which he did not receive, to clean the black oily substance. Because there was no working light in his cell, he spent much of this time in darkness. Later, he slipped on the water in his cell causing a head

[illegible]

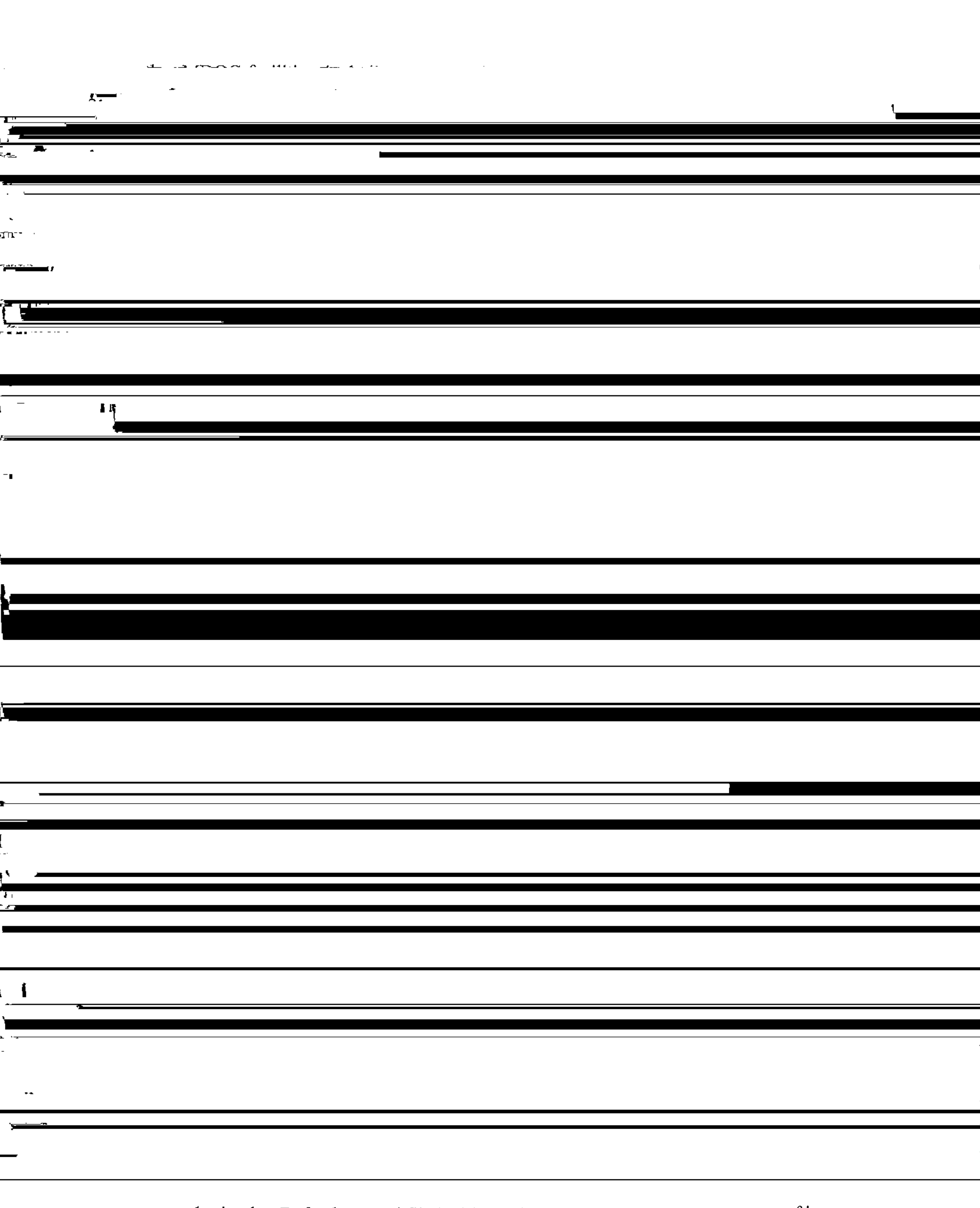
experiencing spells of dizziness and forgetfulness.

249. Security officers allow fires to burn and do not take measures to protect asthmatic

## NUTRITION AND FOOD SAFETY



tray.”



were submitted to Defendants and filed with a federal court but were largely ignored.[24]

252. On May 15, 2012, Plaintiffs' Counsel sent Defendant Epps a nine-page letter

Recently, the court-appointed monitors overseeing the implementation of the consent decree governing Walnut Grove found that the MTC-operated facility "continues to be plagued with

lockdowns, contraband control issues, and management of special populations."[27]

with state officials about assigning a full-time investigator to investigate incidents at EMCF, as the facility was exhausting his resources.[29]

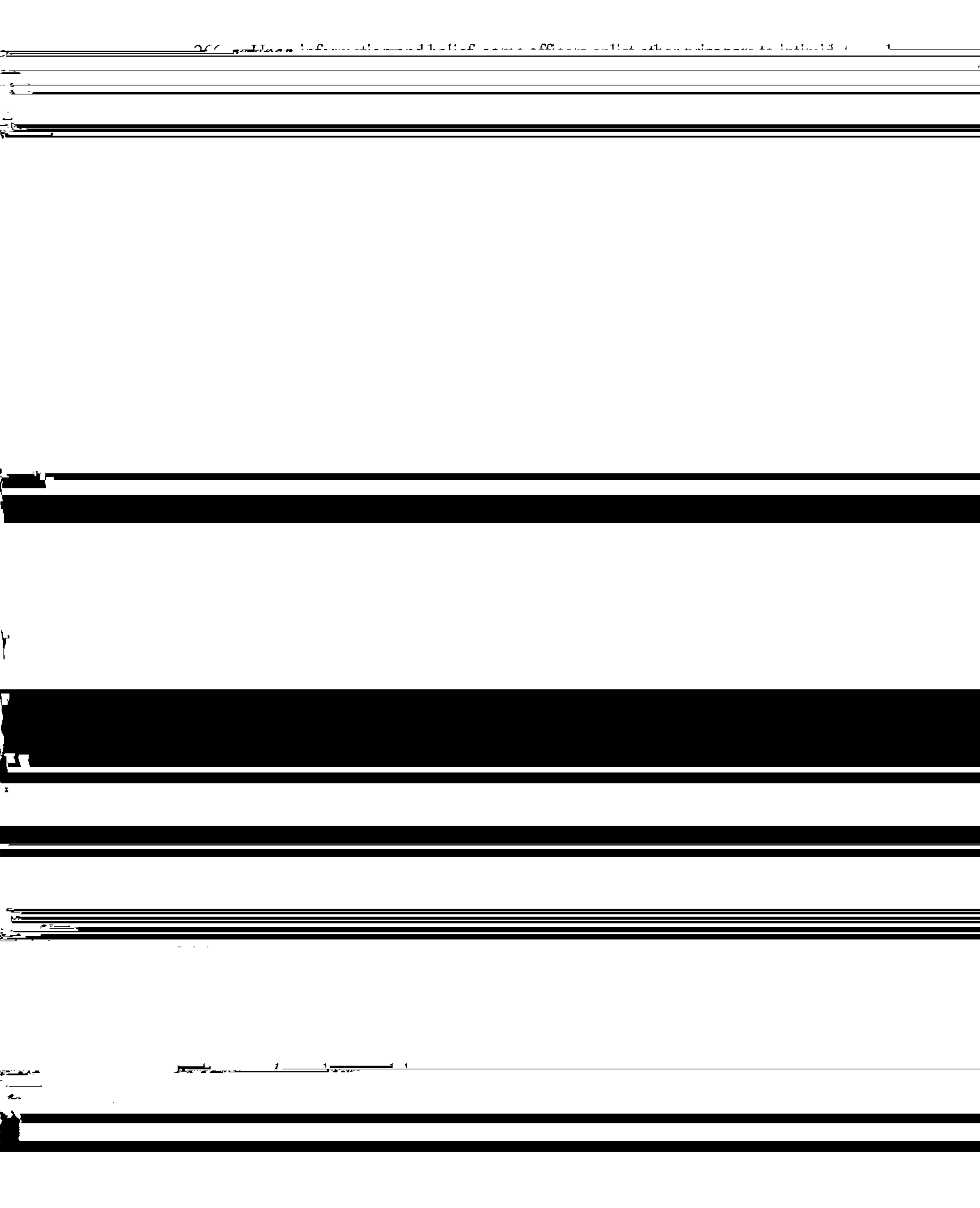
**MDOC Fails to Monitor and Hold its Health Care Contractors Accountable**

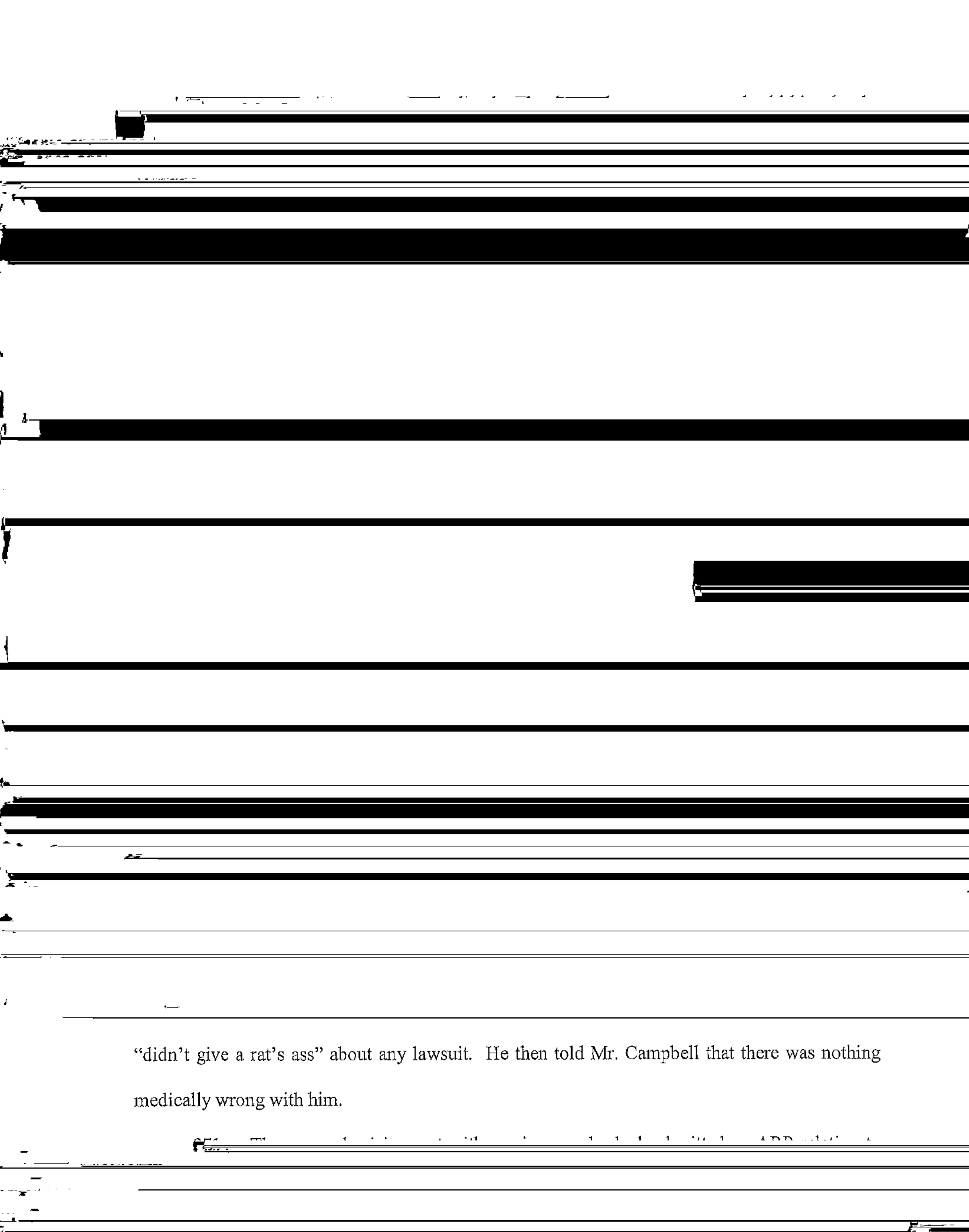
[illegible]

prisons besides EMCF. In her reports to Defendants, Ms. LaMarre emphasized that MDOC

[illegible]

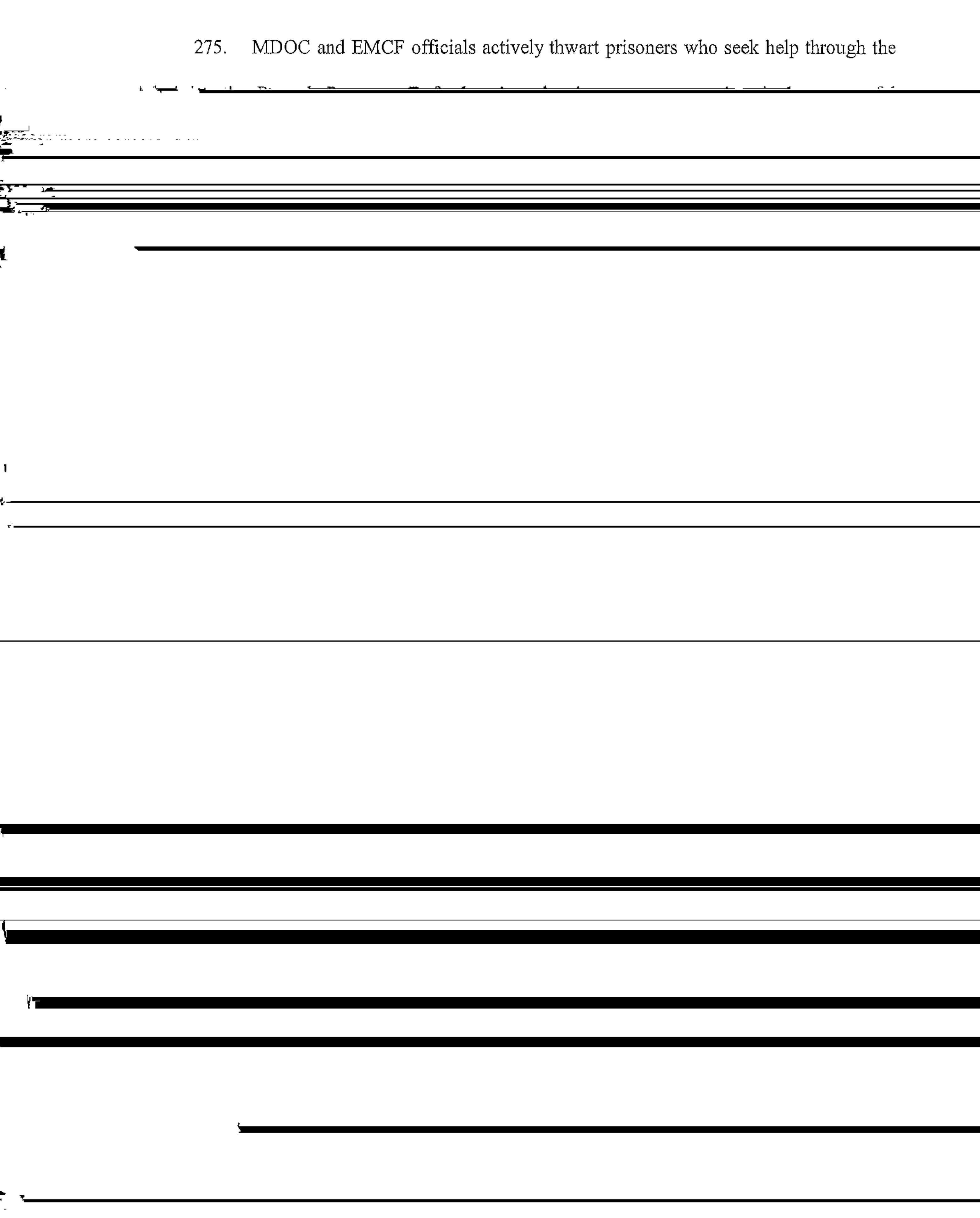
261. Further, the contract Defendant Epps entered into with Health Assurance in 2012 incorporates all the faults and deficiencies of MDOC's contract with GEO. Despite Ms.

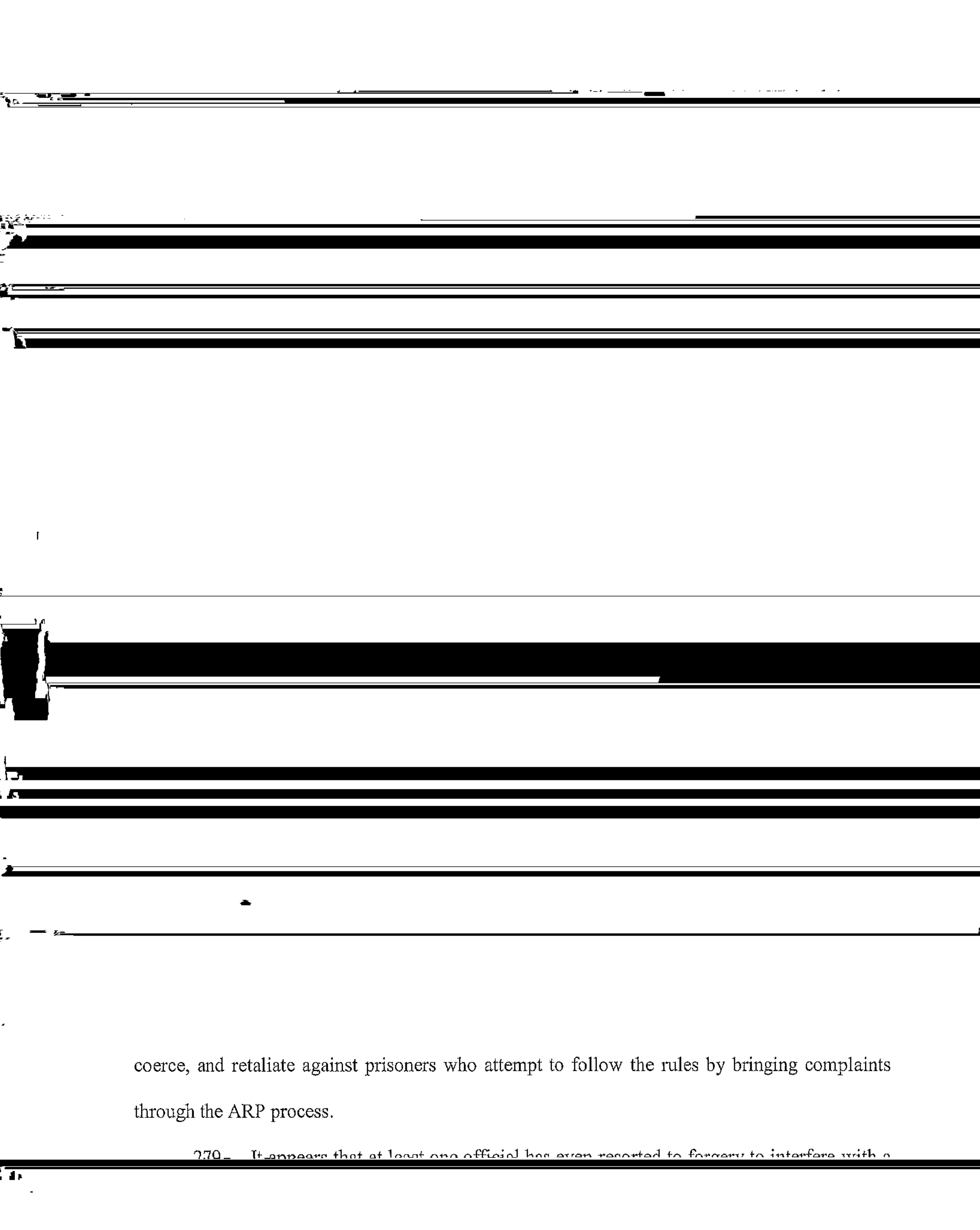




"didn't give a rat's ass" about any lawsuit. He then told Mr. Campbell that there was nothing medically wrong with him.

275. MDOC and EMCF officials actively thwart prisoners who seek help through the



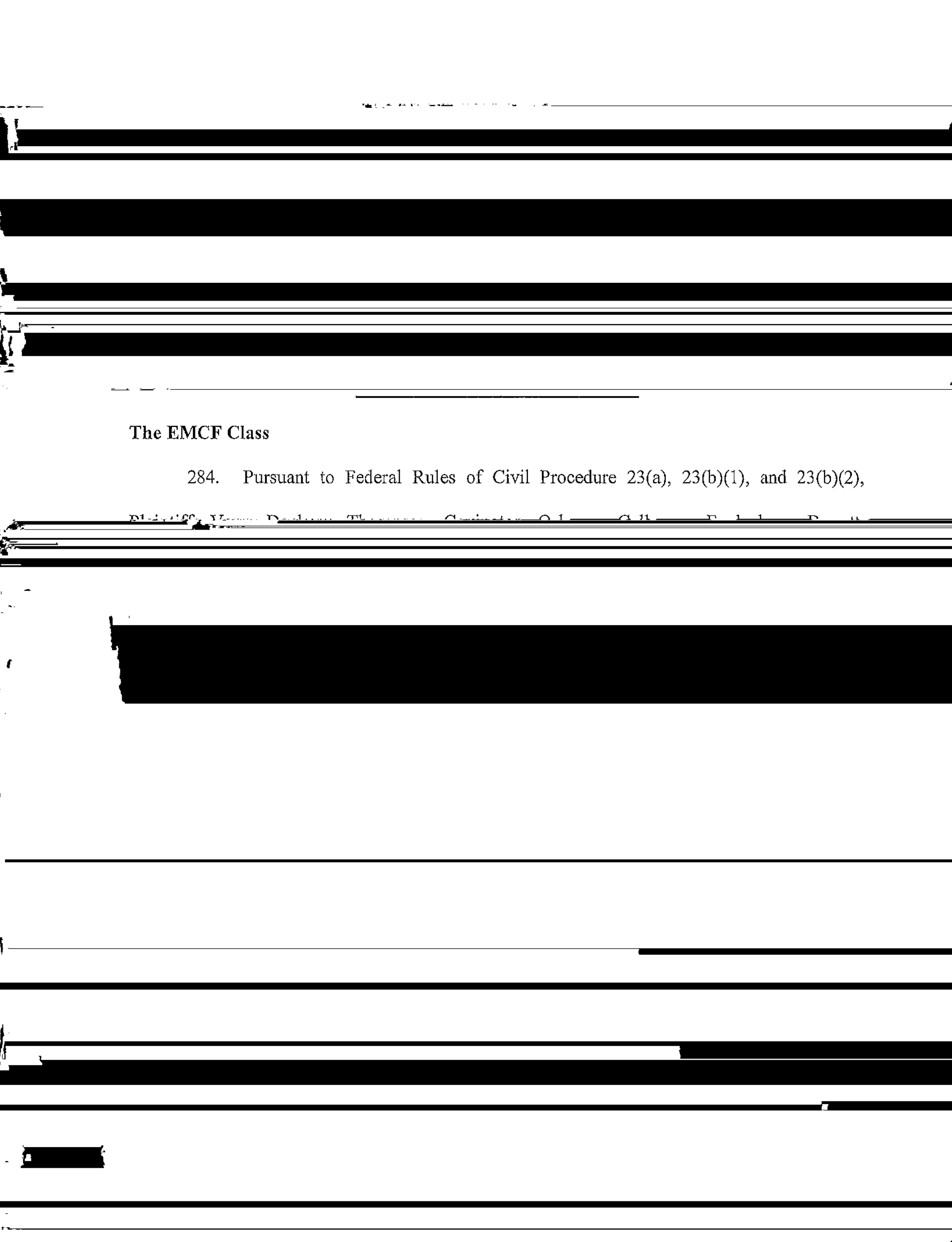


coerce, and retaliate against prisoners who attempt to follow the rules by bringing complaints through the ARP process.

279. It appears that at least one official has even resorted to forgery to interfere with a

no means of determining which one he withdrew. Multiple prisoners have been similarly misled and forced to withdraw ARPs.

281. Similarly, when prisoners finally complete the ARP process and have received a second-step response, they are told in writing that they are "eligible to seek judicial review within 30 days of receipt of the Second Step Response." There is no requirement in federal



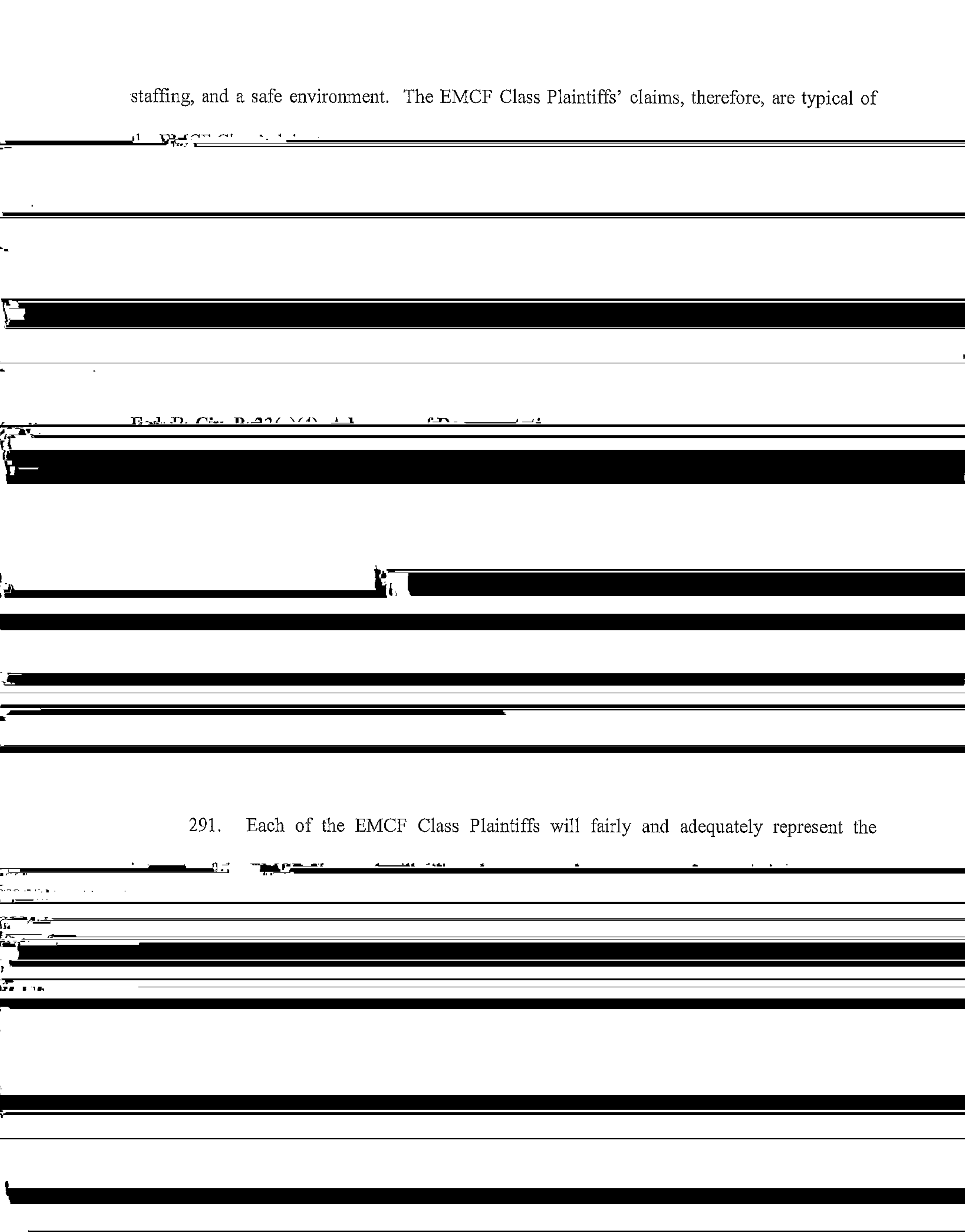
**The EMCF Class**

284. Pursuant to Federal Rules of Civil Procedure 23(a), 23(b)(1), and 23(b)(2),

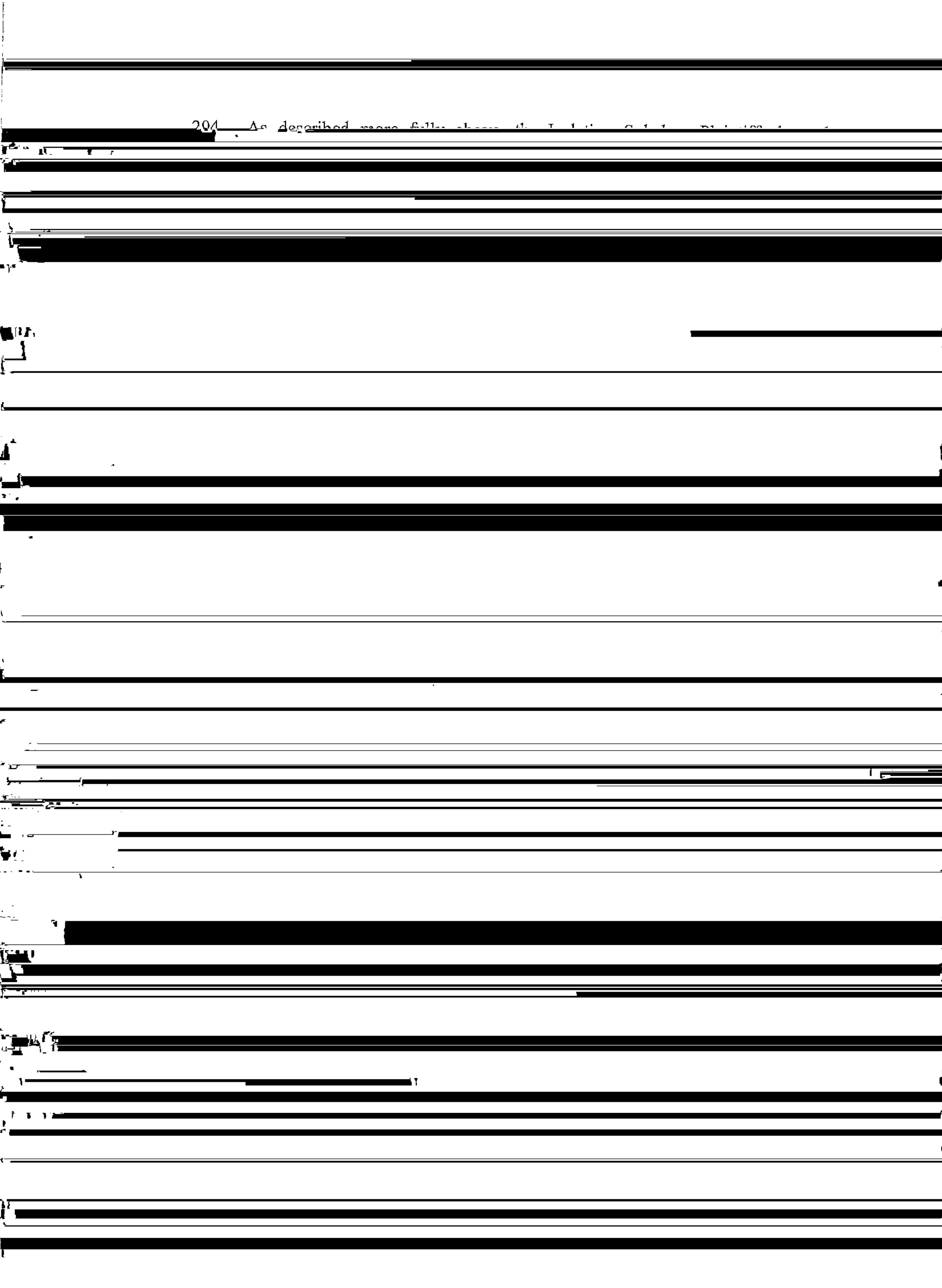
self-harm. As discussed more fully below, as a result of Defendants' policies and practices, Mr. Ward has been placed at a substantial risk of serious harm in the form of being attacked by other prisoners. Defendants are aware of the threats posed by their failure to protect prisoners like Plaintiffs Fredenburg and Ward from violence but have failed to abate those risks.

**Fed. R. Civ. P. 23(a)(1): Numerosity**

staffing, and a safe environment. The EMCF Class Plaintiffs' claims, therefore, are typical of



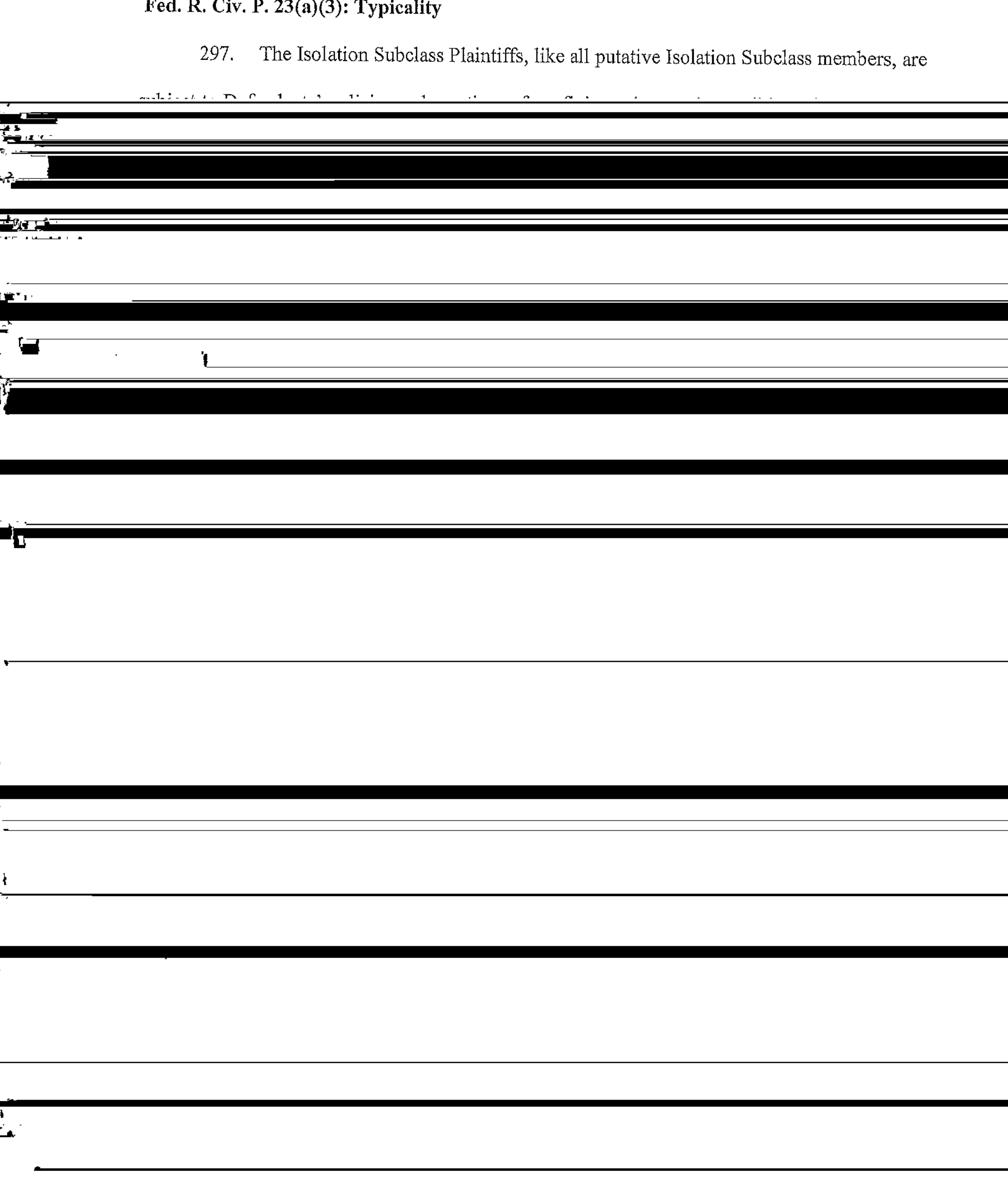
291. Each of the EMCF Class Plaintiffs will fairly and adequately represent the



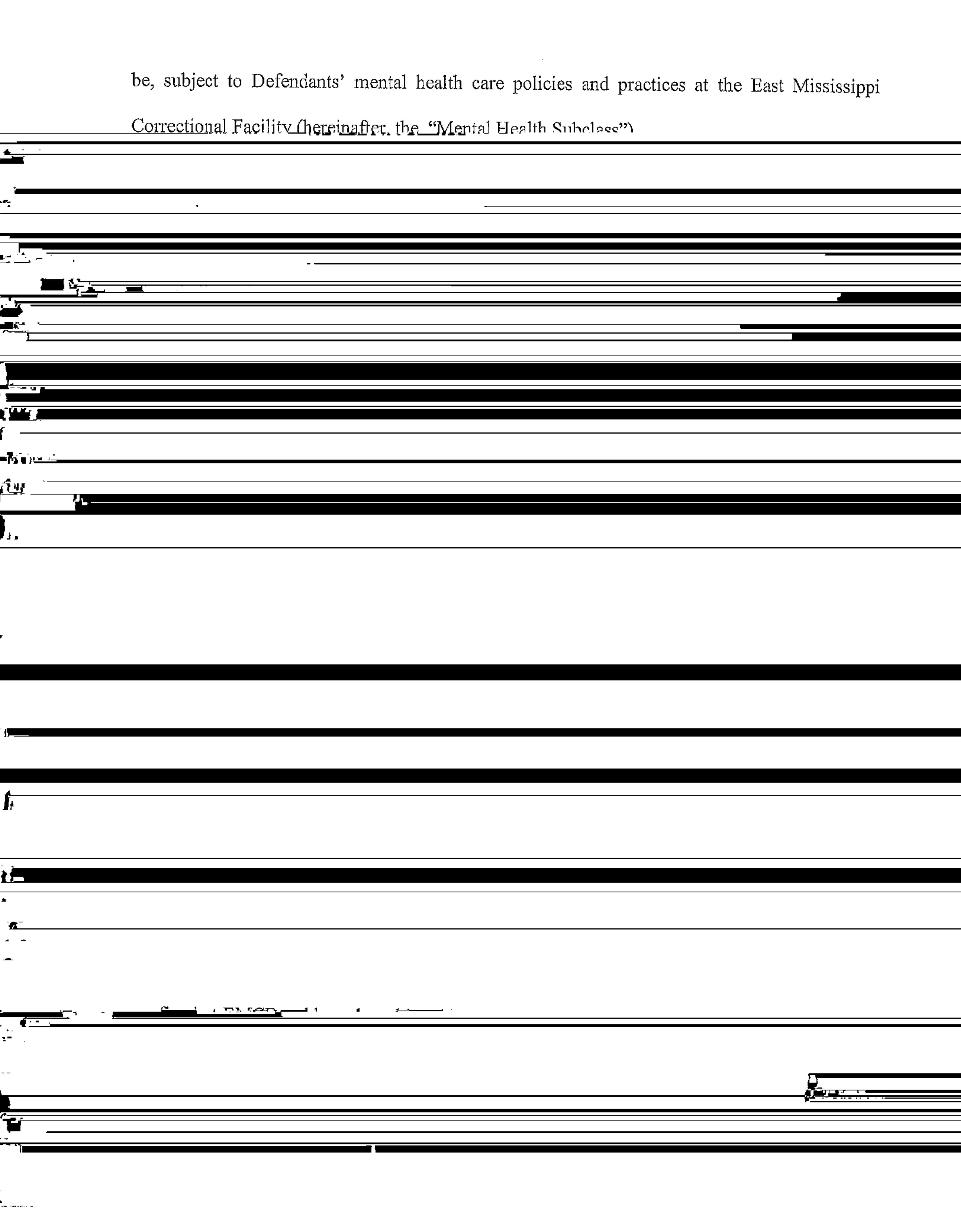
204. As described more fully above, the [illegible]

**Fed. R. Civ. P. 23(a)(3): Typicality**

297. The Isolation Subclass Plaintiffs, like all putative Isolation Subclass members, are



be, subject to Defendants' mental health care policies and practices at the East Mississippi Correctional Facility (hereinafter, the "Mental Health Subclass")



Fed. R. Civ. P. 23(a)(4): Adequacy of Representation

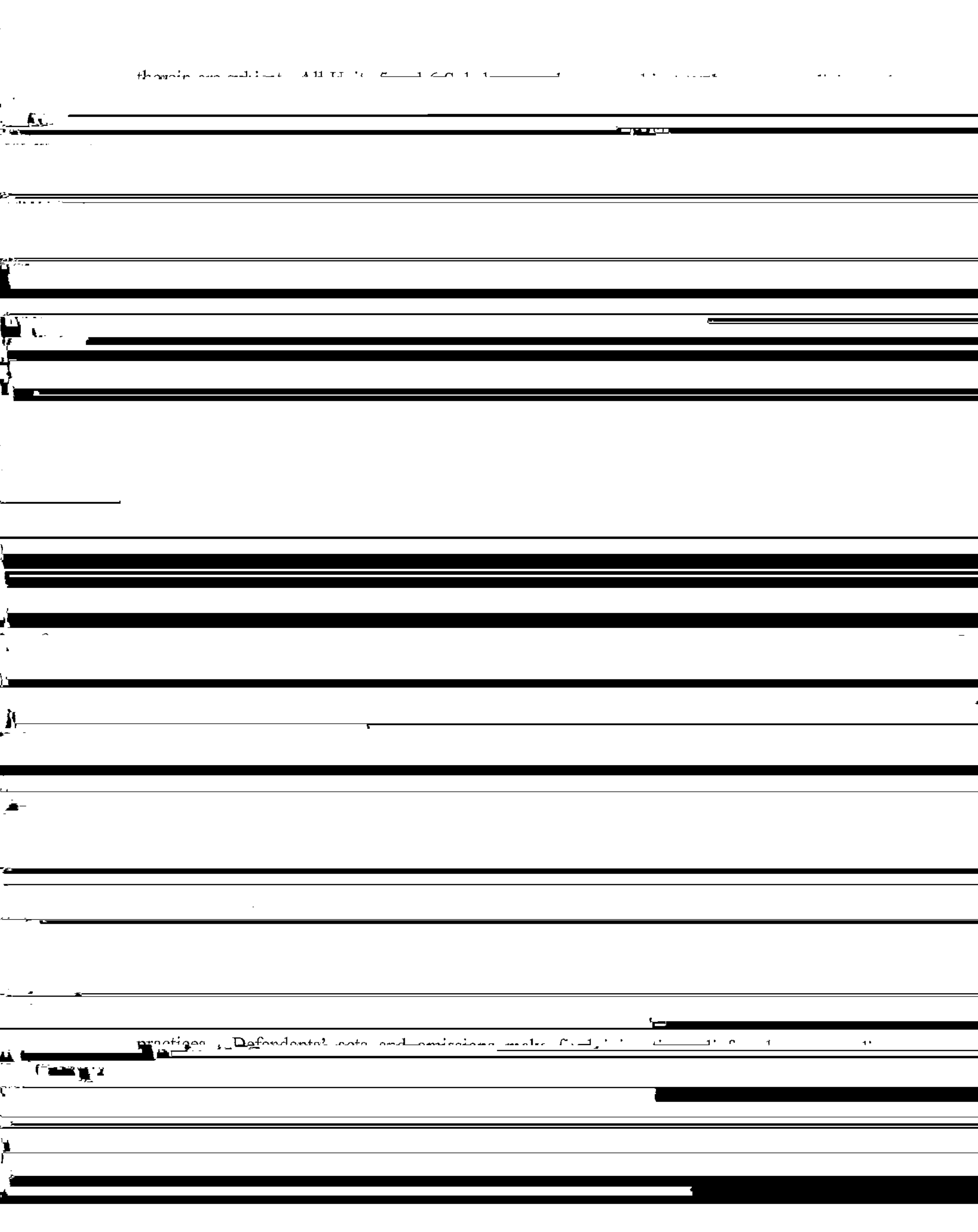
305. Each of the Mental Health Subclass Plaintiffs will fairly and adequately represent

**Fed. R. Civ. P. 23(a)(2): Commonality**

309. There are multiple questions of law and fact common to the entire Units 5 and 6

a. Whether Defendants' policies and practices of failing to maintain toilets, light

therein are subject [illegible]

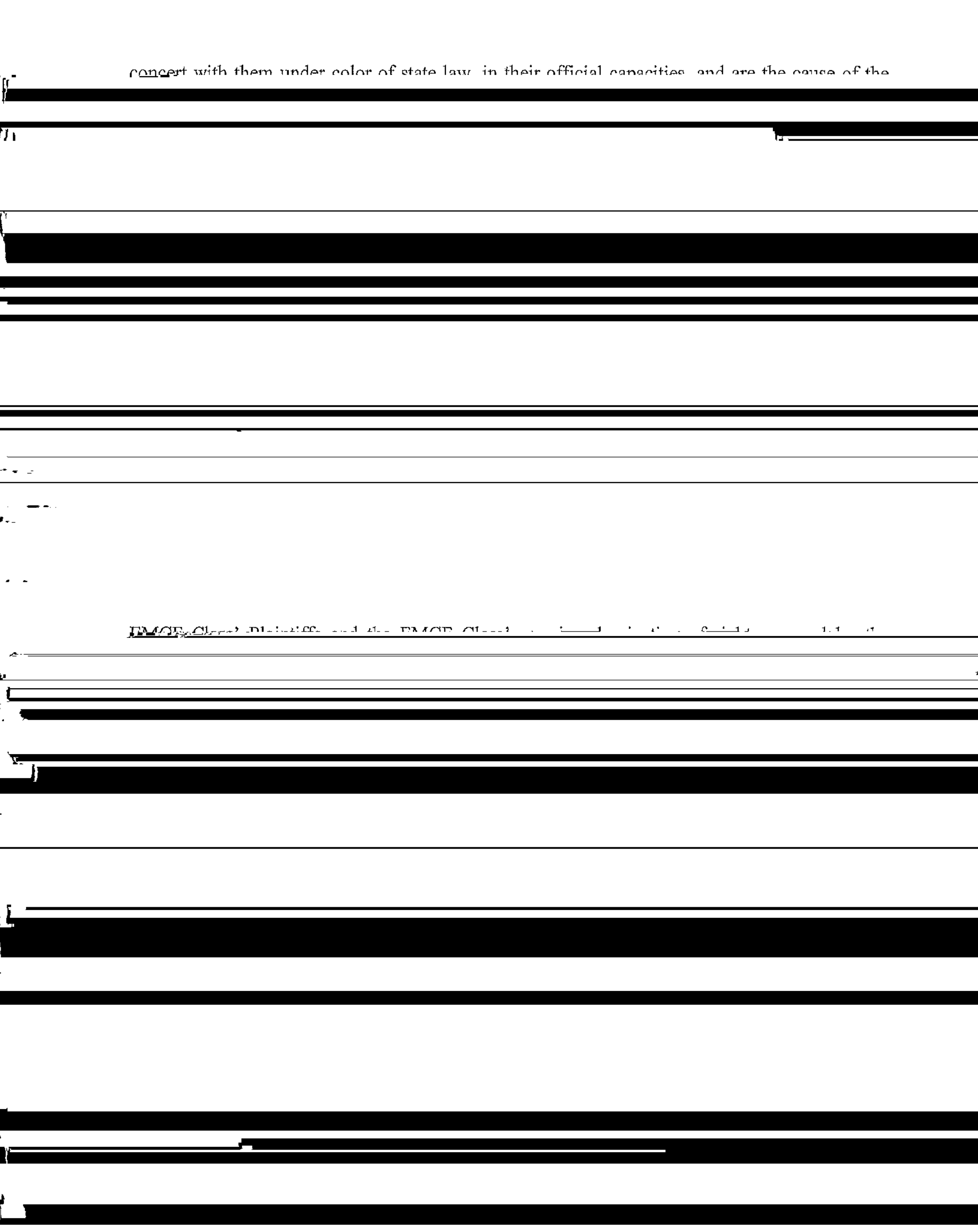


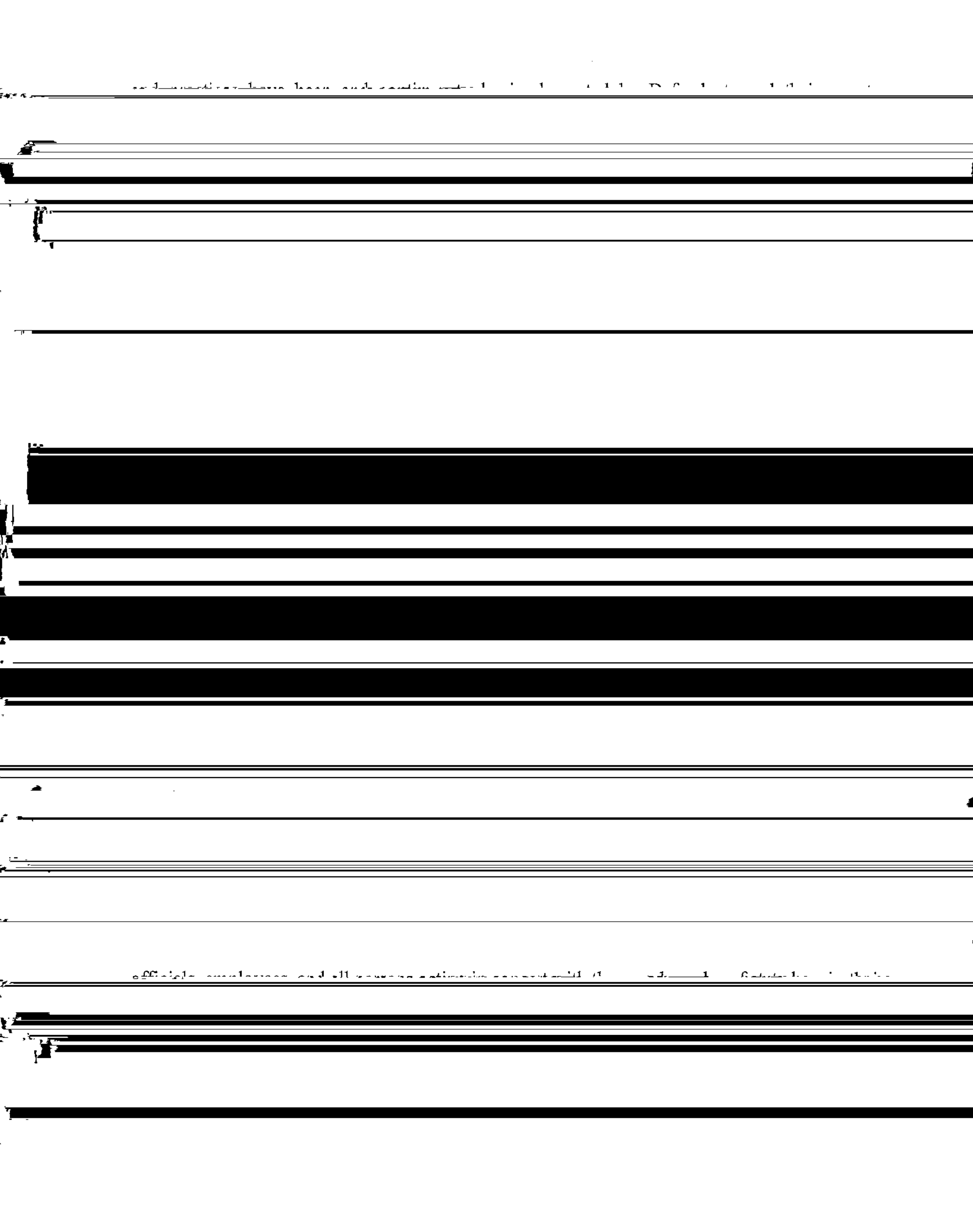
practices. Defendants' acts and omissions make [illegible]

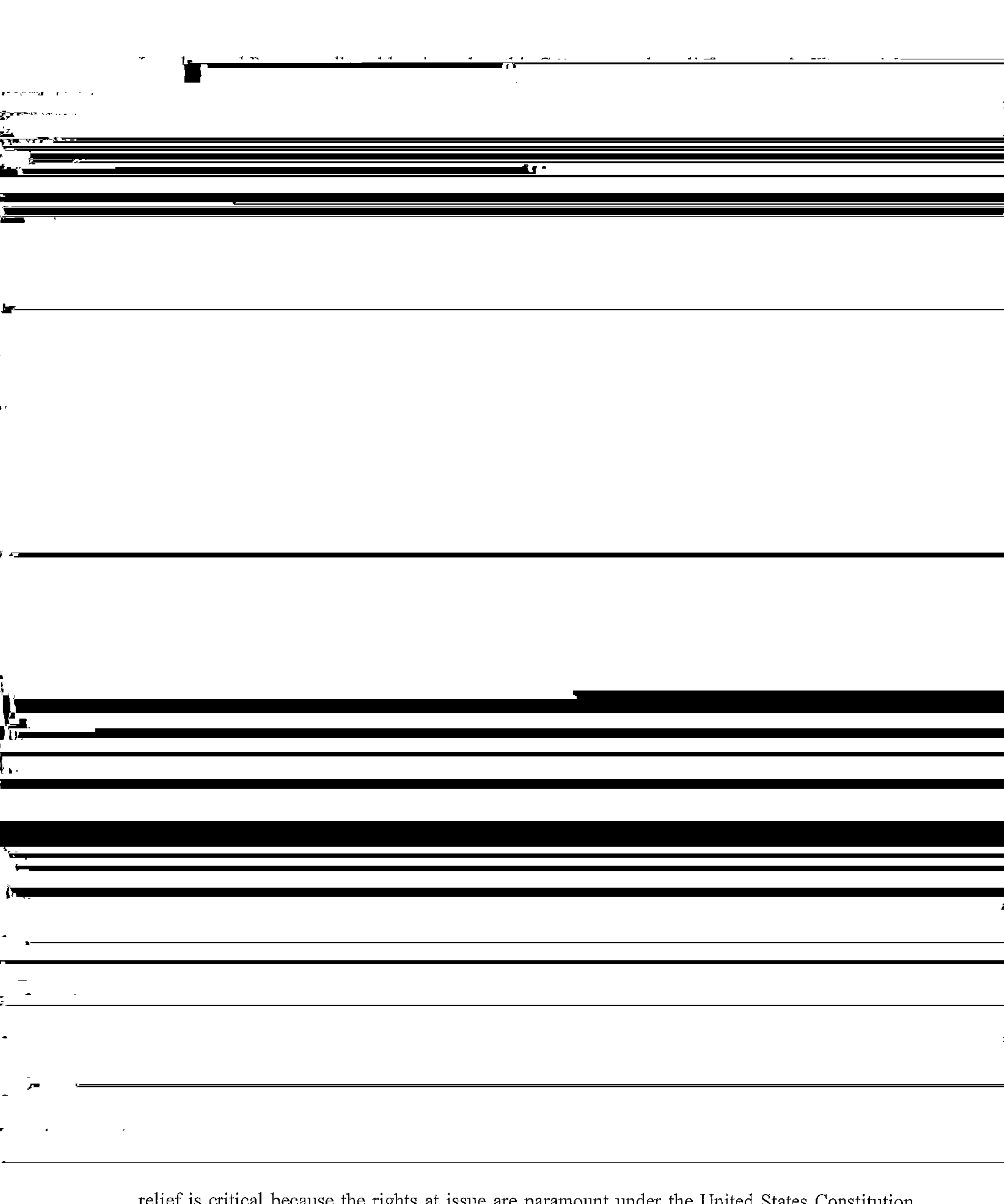
and federal law.

316. Defendants have been and are aware of all of the deprivations complained of

concert with them under color of state law, in their official capacities, and are the cause of the







relief is critical because the rights at issue are paramount under the United States Constitution and the laws of the United States.

328. **WHEREFORE**, Plaintiffs pray that this Honorable Court grant the following

psychological harm and pain;

ii. **Mental Health Care:** Provision of timely access to adequate treatment for serious mental illness, including, but not limited to, medication, therapy, inpatient

RESPECTFULLY SUBMITTED, this 30th day of May, 2013.

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