

**Exhibit A – Plaintiff’s First Amended and  
Supplemental Complaint**

**IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>MUMIA ABU-JAMAL</b>	:	
	:	
<b>Plaintiff,</b>	:	<b>Case No. 15-Cv-00967</b>
	:	<b>(RDM)(KM)</b>
<b>v.</b>	:	
	:	
<b>JOHN KERESTES, Superintendent</b>	:	
<b>State Correctional Institution Mahanoy</b>	:	<b>Judge Robert D. Mariani</b>
	:	
<b>Christopher Oppman, DOC Director of</b>	:	
<b>Bureau of Health Care Services</b>	:	<b>Magistrate Judge Karoline</b>
	:	<b>Mehalchick</b>
<b>Dr. John Lisiak, SCI Mahanoy</b>	:	
	:	
<b>Dr. Shaista Khanum, SCI Mahanoy</b>	:	
	:	
<b>Scott Saxon, Physician’s Assistant, SCI</b>		<b>ELECTRONICALLY FILED</b>
<b>Mahanoy</b>		
<b>Chief Health Care Administrator John</b>		
<b>Steinhart, SCI Mahanoy</b>		
<b>GEISINGER MEDICAL CENTER</b>		
<b>Defendants.</b>		

JURISDICTION

1. This is an action for monetary, declaratory, and injunctive relief for violations of the First, Fifth, Eighth, and Fourteenth Amendments of the United States Constitution pursuant to 42 U.S.C. § 1983, and violations of Pennsylvania State law.

2. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331, 1343(a)(3) and (4). The Plaintiff further invokes the supplemental jurisdiction of this Court under 28 U.S.C. Section 1367(a) to hear and adjudicate state law claims.
3. This Court is the appropriate venue pursuant to 28 U.S.C. § 1391(b)(2) because the events and omissions giving rise to the claims occurred in the Middle District of Pennsylvania.

### PARTIES

1. Mumia Abu-Jamal is an African-American currently incarcerated in the custody of the Pennsylvania Department of Corrections (DOC). Mr. Jamal's case is well-known world-wide and is considered by many to be a case of injustice.
2. Defendant John Kerestes is the Superintendent at SCI Mahanoy. Defendant Kerestes is responsible for the overall operation of SCI Mahanoy. Defendant Kerestes has the power to authorize attorney and family visits with individuals in the custody of SCI Mahanoy when they are in a hospital off of prison grounds. In addition, he is responsible for the well-being and health of individuals incarcerated at SCI Mahanoy. Defendant Kerestes is sued in his individual and official capacities.
3. Defendant Christopher Oppman is the Director of the Bureau of Health Care Services of the DOC. The Bureau of Health Care Services is responsible for the delivery of all medical and dental care services

throughout the DOC. Defendant Oppman is sued in his individual and official capacities.

4. Defendant John Lisiak is a Doctor at SCI Mahanoy. Defendant Lisiak is sued in his individual and official capacities.
5. Defendant Shaista Khanum is a Doctor at SCI Mahanoy. Defendant Khanum is sued in her individual and official capacities.
6. Defendant Scott Saxon is a Physician's Assistant at SCI Mahanoy. Defendant Saxon is sued in his individual and official capacities.
7. Defendant John Steinhart is the Chief Health Care Administrator at SCI Mahanoy. Upon information and belief, Defendant Steinhart is the official with the authority to approve medical tests and procedures, and treatments at issue in this litigation. Defendant Steinhart is sued in his individual and official capacities.
8. Defendant Geisinger Medical Center is the hospital facility where plaintiff Abu-Jamal was housed from on or about May 12, 2015 to May 19, 2015. Upon information and belief, Defendant Geisinger Medical Center, in coordination with the DOC, has a policy of prohibiting all communication between hospital patients in the custody of the DOC and their lawyers, family, friends, and others not in the employ of the DOC or Geisinger Medical Center. Defendant Geisinger Medical Center has the power to authorize attorney and family visits with hospital patients who are in the

custody of the DOC. This authority is exercised in conjunction with DOC authority, thus constituting state action.

### STATEMENT OF FACTS

#### Background

9. Mumia Abu Jamal, now 61 years old, has been incarcerated since 1981. In the late 1960's and early 1970's he was a member of the Philadelphia chapter of the Black Panther Party for Self Defense (BPP). That organization, founded in 1966 in Oakland, California, had a ten point program that called for community control of the institutions in the Black community including community control of the police, health care and education.
10. According to disclosures made to Congress in the mid-1970's, the Black Panther Party was the main target of the Federal Bureau of Investigation's (FBI) counterintelligence program, known as COINTELPRO. COINTELPRO's stated aim was to "neutralize" Black organizations and their leaders through a variety of illegal and/or unconstitutional actions. (See Final Report Book III, Senate Select Committee On Government Operations at [http://www.aarclibrary.org/publib/church/reports/book3/pdf/ChurchB3\\_1\\_COINTELPRO.pdf](http://www.aarclibrary.org/publib/church/reports/book3/pdf/ChurchB3_1_COINTELPRO.pdf)).

11. As a member of the Philadelphia chapter of the BPP Plaintiff Abu-Jamal often spoke out against racism, particularly the violence of the police directed at the Black community. Aware of his activities, the FBI placed him on its Security Index solely due to his public speeches for the Black Panther Party. (See “FBI File Tracks Abu-Jamal Through His Teenage Years” Philadelphia Inquirer, June 12, 1995, [http://articles.philly.com/1995-06-12/news/25690155\\_1\\_mumia-abu-jamal-officer-daniel-faulkner-wesley-cook](http://articles.philly.com/1995-06-12/news/25690155_1_mumia-abu-jamal-officer-daniel-faulkner-wesley-cook)).

12. By the late 1970’s Plaintiff Abu-Jamal was a well-known print and radio journalist. He was known as the “Voice of the Voiceless” and continued writing about issues affecting the Black community. He was, among other things, a vocal supporter of the MOVE organization and served a term as the President of the Philadelphia Chapter of the National Association of Black Journalists.

13. On December 9 1981, Mr. Abu-Jamal was arrested following a shooting incident that left Philadelphia Police Officer Daniel Faulkner dead and Mr. Abu-Jamal severely wounded.

14. Plaintiff Abu-Jamal was charged with Officer Faulkner’s murder. He was convicted and sentenced to death. He has always maintained his innocence.

15. After his sentencing Plaintiff Abu Jamal was transferred to the custody of the Pennsylvania Department of Corrections (DOC) and placed on death row. He was to be on death row for nearly 30 years.
16. During that time, Plaintiff Abu-Jamal made numerous applications to both state and federal courts to vacate his conviction. These applications included new evidence that provided compelling proof of his innocence. The numerous injustices in his case led to a world-wide movement calling for his release.
17. At the same time, many police organizations, most notably the Fraternal Order of Police (FOP), engaged in a campaign calling for Mr. Abu-Jamal's execution. See "FOP Outraged Over Court's Consideration Of New Trial For Jamal" at <http://www.fop.net/causes/faulkner/3rdcircuit.shtml>.
18. All applications for a new trial have, to date, been denied. However, in 2011, the United States Court of Appeals for the Third Circuit affirmed the order of the lower court that set aside the death sentence. *Abu-Jamal v. Secretary, Pennsylvania Department of Corrections*, 643 F.3d 370 (3d Cir. 2011).
19. The Philadelphia District Attorney's Office chose not to seek to reinstate the death sentence. Mr. Abu-Jamal was then placed by the DOC into general population.

20. As he has done throughout his incarceration, Mr. Abu-Jamal has commented orally and through writings, on the issues of the day (*See* [www.prisonradio.org](http://www.prisonradio.org)).
21. But there have been extraordinary efforts to deny Mr. Abu-Jamal his First Amendment rights. In 2014 Mr. Abu-Jamal was invited to send a statement that would serve as the commencement address at Goddard College, his alma mater. At the urging of the Fraternal Order of Police, the Pennsylvania legislature passed, and the Governor signed a law that became commonly known as the “Silence Mumia Act.”
22. Under it, a court would have had the authority to stop publication of anything written or said by a prisoner that could have caused distress to the prisoners’ victims and/or the victims’ loved ones.
23. On April 28, 2105, the law was declared unconstitutional on its face. *Jamal v. Kane*, -- F.Supp.3d --, 2015 WL 1932236 (M.D.Pa. 2015).

Health Issues And Inadequate Medical Care

24. During routine blood work in January 2012, Plaintiff Abu-Jamal tested positive for the Hepatitis C antibody.
25. Hepatitis C is the leading cause of cirrhosis of the liver and liver cancer. Chronic Hepatitis C infection can also cause serious chronic liver disease, liver fibrosis and death.



26. If a person tests positive for the Hepatitis C antibody, the next step is to determine whether the infection is “active”. This includes, but is not limited to, determining whether the person has a “viral load”. Should it be determined that the infection is active, the infected individual is at risk for the serious complications that arise from the disease. See CDC Guidelines Sequence Of Testing In Suspected Hepatitis C Infections at [http://www.cdc.gov/hepatitis/hcv/pdfs/hcv\\_flow.pdf](http://www.cdc.gov/hepatitis/hcv/pdfs/hcv_flow.pdf).

27. Despite repeated requests the defendants, and each of them, have not, to date, conducted a complete Hepatitis C workup for Plaintiff Abu-Jamal. Nor have they treated the disease or adequately treated his symptoms.

28. Hepatitis C can manifest itself in a number of ways even in the absence of abnormal liver functions. One of those manifestations can be a persistent skin rash and/or eczema that does not respond to traditional treatment. <http://www.dermnetnz.org/viral/viral-hepatitis.html#C>.

29. This is the case for Plaintiff Abu-Jamal.

30. In or about August 2014 Mr. Abu Jamal began to experience itching over his whole body. The itching was reported to facility staff. Creams were prescribed but they had no effect. The rash spread. Yet its underlying cause, including the likely possibility that it was a manifestation of an active Hepatitis C infection, was not investigated.

31. On two occasions in early 2015, the rash became infected. Lesions appeared on Mr. Abu Jamal's lower extremities. There were so many of them that medical staff notes in the records that they were "too numerous to count". Mr. Abu-Jamal's lower extremities also became swollen. His skin took on a dark, scaly appearance.
32. The rash caused and continues to cause extreme pain and discomfort to Mr. Abu-Jamal.
33. By February 2015, the rash covered 70% of Mr. Abu-Jamal's body. The itch was unceasing. The lower extremity and genital edema caused so much discomfort that Mr. Abu Jamal began using a wheelchair to move any significant distance.
34. In late February 2015 Mr. Abu-Jamal was prescribed another steroid, oral prednisone, and Cyclosporine, an immunosuppressant. But the rash persisted. A medical note dated February 19, 2015 recorded the fact that plaintiff Abu-Jamal was experiencing "increasing peeling off of dry skin at the site of rashes".
35. On March 6, 2015, blood was drawn. The results showed that Mr. Abu-Jamal's glucose level had risen to the severely abnormal level of 419. Prior to that time, Mr. Abu-Jamal's blood glucose had always been within normal range.

36. Defendants Lisiak, Khanum, and Saxon were aware that plaintiff Abu-Jamal had a dramatically elevated glucose level indicating a dangerous case of hyperglycemia.
37. Defendants Lisiak, Khanum, and Saxon took no action to address the glucose level even though it was noted in their records. There was no treatment provided, nor any follow up testing of his glucose level. They did not even inform Mr. Abu-Jamal of that test result.
38. On March 30, 2015, Mr. Abu-Jamal lost consciousness. He was rushed to Schuylkill Medical Center. Upon testing his blood glucose was found to be 507. He had gone into diabetic shock and was placed in the Critical Care Unit.
39. Untreated hyperglycemia is a potentially fatal condition.
40. He was returned to the prison on April 1. His release papers indicate the prognosis as “guarded” and include the following medical issues: diabetes, new onset, encephalopathy secondary to hyperglycemia, dehydration, acute kidney injury, hyponatremia, hypokalemia, asymptomatic gallstones, skin rash, anemia and a history of hepatitis C.
41. In the weeks following the diabetic shock, Mr. Abu Jamal experienced fatigue, episodes of “brain fog” and emotional distress.

42. Mr. Abu Jamal's blood work revealed, and continues to reveal abnormalities. He suffers from anemia indicated by a consistently below-normal-range hemoglobin count.
43. The defendants continued to administer the drug cyclosporine despite the fact that it is contraindicated for an African-American of Mr. Abu-Jamal's age who has sudden-onset diabetes.
44. The Schuylkill release order noted that Mr. Abu Jamal had a "history" of Hepatitis C. Yet none of the defendants, including defendants Lisiak, Khanum, or Saxon took any steps to investigate whether the Hepatitis C may be the cause of the rash and/or other medical issues.
45. In March 2015, Mr. Abu Jamal retained counsel to advocate on behalf of Mr. Abu-Jamal for appropriate medical care. These efforts have included visits, procurement of medical records, and consultation with medical experts.
46. One expert reviewed Mr. Abu-Jamal's medical records. On April 28, 2015, counsel transmitted a medical opinion letter from the medical expert to the Department of Corrections.
47. The expert opined, *inter alia* that there should be an "occult malignancy workup" to determine the cause of the still-present severe rash and anemia as both are indicative of T-Cell Lymphoma. He noted:

The workup to investigate the cause of the rash is urgent at this time. If it is due to lymphoma or some other serious underlying medical condition then delaying the diagnosis may have severe and even lethal consequences.

48. On or about May 12, 2015, Mr. Abu-Jamal experienced extreme pain in his lower extremities when showering. Later that day, he was removed from the facility and moved to Geisinger Medical Center
49. Counsel requested that he be permitted to visit with Mr. Abu-Jamal at Geisinger. Mr. Abu-Jamal's wife made the same request.
50. After initially being told that Defendant Kerestes would permit visits from immediate family members, both counsel and Mrs. Abu-Jamal were told that Mr. Abu-Jamal would be denied all visitation, including visits with his attorneys so long as he remained at Geisinger. Nor would Mr. Abu-Jamal be permitted to telephone his attorneys and/or his wife.
51. DOC counsel asserted that the prohibition on visitation and phone calls was the policy of Geisinger Medical Center. In fact, during a prior hospitalization at Schuylkill Medical Center, Mr. Abu Jamal received visits from his attorney and immediate family.
52. On Thursday, May 14, counsel contacted Geisinger Medical Center's litigation counsel, Donald Zaycosky. Mr. Zaycosky agreed to seek authorization from Geisinger's Chief Medical Officer and DOC officials to permit family and attorney visits and phone calls with Mr. Abu-Jamal.

53. On Monday, May 18, plaintiff Abu-Jamal was granted a 15-minute phone call with his wife. However, he was not permitted visitation with his attorneys or family during his entire stay at Geisinger.
54. During his May 12, 2015 to May 19, 2015 stay at Geisinger numerous diagnostic tests were conducted.
55. While those tests and a subsequent bone marrow biopsy ruled out some serious conditions, including some cancers, the underlying cause(s) of Mr. Abu-Jamal's health problems, including the rash and anemia, were not determined.
56. No Hepatitis C workup was performed at Geisinger Medical Center.
57. While Mr. Abu-Jamal was at Geisinger, his rash was treated with a steroid wrap four times per day. That treatment partially alleviated the rash's worst symptoms.
58. The discharge report from Geisinger dated May 18, 2015 advises DOC to, *inter alia*, arrange for a dermatology follow-up within two weeks and to order a Hepatitis C work-up as Mr. Abu-Jamal might be a suitable candidate for Hepatitis C treatment.
59. Since his May 18, 2015 return to SCI Mahanoy, the rash has only been treated with a Vaseline wrap. The Vaseline wrap was applied twice a day upon his return from Geisinger. The worst symptoms have now returned.

60. Mr. Abu-Jamal again experiences itching over his entire body. His lower extremities are swollen. His skin peels and scales. He is unable to walk significant distances due to the pain in his lower extremities. In addition, he experiences a consistent low-grade fever.
61. Notwithstanding the recommendations of Geisinger Medical Center, there has been no follow-up with a dermatologist.
62. Upon information and belief, the type of skin rash and edema now being experienced by Mr. Abu-Jamal is likely caused by an active Hepatitis C infection.
63. The defendants have been made aware the skin condition is a likely complication of untreated Hepatitis C through letters from counsel accompanied by expert medical reports.
64. During the last week of July, 2015 Mr. Abu-Jamal was informed by a doctor at SCI Mahanoy that a blood test revealed that he has active Hepatitis C. Mr. Abu-Jamal was informed that the DOC currently has no protocol for treating Hepatitis C.
65. Despite Mr. Abu-Jamal having active Hepatitis C that has been causing him severe health problems for several months, the defendants are refusing to provide him with Hepatitis C treatment.

66. Despite repeated requests from counsel, the defendants have refused to permit Mr. Abu-Jamal to be examined by an independent physician, under appropriate medical conditions, even at his own expense.
67. One expert did visit with Mr. Abu Jamal on a regular visit. He also examined available medical records. Based on the visit and that review he opined that Mr. Abu Jamal's skin condition is likely a manifestation of the Hepatitis C infection. He recommended specific treatments for both the skin condition and the Hepatitis C.
68. The expert's recommendations were provided to DOC counsel but have not been implemented.
69. Mr. Abu Jamal has been informed that DOC officials have forbidden medical staff at SCI Mahanoy from receiving any opinions, letters, diagnoses, or other communications from doctors who are working with counsel for Mr. Abu-Jamal, even if such opinions or letters are provided to them by Mr. Abu-Jamal himself.
70. Mr. Abu Jamal is currently received no treatment for his skin condition. The Vaseline applications have ceased and his lower extremities are no longer wrapped.
71. The itching is extreme and incessant and causes pain, loss of sleep and resultant fatigue.



72. There is no medical justification for the defendants' failure to treat Mr. Abu Jamal's skin condition and/or the Hepatitis C.

73. The defendants' actions and inactions have caused and continue to cause Mr. Abu Jamal pain, suffering and emotional distress.

74. In addition, the untreated, active, Hepatitis C infection has caused, and continues to cause damage to Mr. Abu-Jamal's liver.

#### CAUSES OF ACTION

### **Count I – Deprivation of Eighth Amendment Right to Medical Care for Hyperglycemia**

(Against Defendants Kerestes, Lisiak, Khanum, and Saxon in their individual capacities)

75. Plaintiff re-alleges paragraphs 1-74 as if fully stated herein.

76. Defendants Kerestes, Lisiak, Khanum, and Saxon violated Plaintiff's Eighth Amendment right to be free from cruel and unusual punishment through their deliberate indifference to his hyperglycemia, resulting in a nearly fatal episode and causing severe injuries, including, diabetic ketoacidosis, new onset diabetes, encephalopathy secondary to hyperglycemia, dehydration, acute kidney injury, hyponatremia, hypokalemia, and severe psychological pain and suffering.

**Count II – Deprivation of Eighth Amendment Right to Medical Care for Hepatitis C**

(Against Defendants Kerestes, Oppman, Lisiak, Khanum, Saxon, and Steinhart in their individual and official capacities)

77. Plaintiff re-alleges paragraphs 1-74 as if fully stated herein.

78. Defendants Kerestes, Oppman, Lisiak, Saxon, and Steinhart violated Plaintiff's Eighth Amendment right to be free from cruel and unusual punishment through their deliberate indifference to his Hepatitis C. These Defendants have failed to treat his Hepatitis C, causing plaintiff serious injuries, pain, and suffering.

**Count III – Deprivation of Eighth Amendment Right to Medical Care for Skin Condition**

(Against Defendants Kerestes, Lisiak, Khanum, and Saxon in their individual capacities)

79. Plaintiff re-alleges paragraphs 1-74 as if fully stated herein.

80. Defendants Kerestes, Oppman, Lisiak, Saxon and Steihardt have violated Plaintiff's Eighth Amendment right to be free from cruel and unusual punishment through their deliberate indifference to his skin condition. These Defendants have failed to treat his skin condition, causing plaintiff serious injuries, pain, and suffering.

**Count IV – Negligence – Medical Malpractice for Failure to Treat Plaintiff's Hyperglycemia**

(Against Defendants Kerestes, Lisiak, Khanum, and Saxon in their individual capacities)

81. Plaintiff re-alleges paragraphs 1-74 as if fully stated herein.

82. Defendants Kerestes, Lisiak, Khanum, and Saxon violated plaintiff's rights under Pennsylvania state law by their negligent conduct in regard to his hyperglycemia resulting in severe injuries. Defendants violated the standard of care required of medical care professionals and plaintiff's injuries are the direct result of Defendants' negligence.

**Count V – Negligence – Medical Malpractice for Failure to Treat Plaintiff's Hepatitis-C**

(Against Defendants Kerestes, Oppman, Lisiak, Khanum, Saxon, and Steinhart in their individual and official capacities)

83. Plaintiff re-alleges paragraphs 1-74 as if fully stated herein.

84. Defendants Kerestes, Oppman, Lisiak, Khanum, Saxon, and Steinhart violated Plaintiff's rights under Pennsylvania state law by their negligent conduct in regard to his Hepatitis C. These Defendants have failed to treat his Hepatitis C, causing plaintiff serious injuries, pain, and suffering. Defendants violated the standard of care required of medical care professionals and plaintiff's injuries are the direct result of Defendants' negligence.

**Count V – Medical Malpractice For Failure to Treat Skin Condition.**

(Against Defendants Kerestes, Lisiak, Khanum, and Saxon in their individual capacities)

85. Plaintiff re-alleges paragraphs 1-74 as if fully stated herein.

86. Defendants Kerestes, Oppman, Lisiak, Saxon and Steihardt have violated Plaintiff's rights under Pennsylvania state law for their negligent disregard to Mr. Abu Jamal's skin condition. These Defendants have failed to treat his skin condition, causing plaintiff serious injuries, pain, and suffering.

**Count VI – Access to Courts**

(against Defendants Kerestes and Geisinger Medical Center in their Official Capacities )

87. Plaintiff re-alleges paragraphs 1-74 as if fully stated herein.

88. Defendants Kerestes and Geisinger Medical Center violated Plaintiff's Fifth and Fourteenth Amendment right of access to the Courts during his May 2015 hospitalization at Geisinger Medical Center by preventing any and all communication between Plaintiff and his attorneys.

**Count VII – First Amendment Right of Association**

(against Defendants Kerestes and Geisinger Medical Center in their Official Capacities)

89. Plaintiff re-alleges paragraphs 1-74 as if fully stated herein.

90. Defendants Kerestes and Geisinger Medical Center violated Plaintiff's First Amendment right of association by arbitrarily restricting communication and preventing all visitation with his family during his May 2015 hospitalization at Geisinger Medical Center.

#### PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request that the Court grant the following relief:

- A. Award compensatory and punitive damages for defendants' deliberate indifference to plaintiff's hyperglycemia and the resulting injuries.
- B. Award compensatory and punitive damages for defendants' deliberate indifference to plaintiff's Hepatitis C.
- C. Award compensatory and punitive damages for the defendants' deliberate indifference to Mr. Abu Jamal's skin condition.
- D. Grant a preliminary injunction ordering defendants to perform medically necessary tests and treatment for Plaintiff's Hepatitis C.
- E. Grant a preliminary injunction ordering the defendants to treat Mr. Abu Jamal's skin condition in accordance with his experts' recommendations.
- F. Granting Mr. Abu Jamal the right to an in-person consultation and examination by the medical doctor of his choice under conditions that would permit such an examination and further ordering that if DOC refuses to permit adequate consultation and/or treatment by a doctor of his

choice inside the prison that the same be ordered to take place outside of DOC custody.

- G. Grant a permanent injunction ordering defendants to permit attorney-client visits whenever plaintiff Abu-Jamal is taken from a DOC facility to receive inpatient medical treatment;
- H. Grant a permanent injunction ordering defendants to permit family visits when plaintiff Abu-Jamal is taken from a DOC facility to receive inpatient medical treatment;
- I. Grant attorneys' fees and costs.

/s/ Bret D. Grote

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