

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX**

ARNOLD CATALA, CORY ELDER, BEN  
FOSTER, JERRY YOUNG,

Plaintiffs,

- against -

THE CITY OF NEW YORK, THE NEW YORK  
CITY DEPARTMENT OF CORRECTION,  
LYNELLE MAGINLEY-LIDDIE IN HER  
OFFICIAL CAPACITY AS COMMISSIONER  
OF THE NEW YORK CITY DEPARTMENT OF  
CORRECTION,

Defendants.

Index No. 820112/2025E

**ORAL ARGUMENT  
REQUESTED**

**MEMORANDUM OF LAW IN SUPPORT OF  
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

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## I. PRELIMINARY STATEMENT

The New York City Department of Correction (“DOC”) is keeping dozens of people in solitary confinement for twenty-three or more hours each day in violation of the Humane Alternatives to Long-Term Solitary Confinement Act (“HALT”) (Correction Law (“CL”) §§ 2(23), 137(6)). As a result, Class Members are suffering profound, long-lasting and often irreversible psychological, neurological and other medical harm. Unless this Court intervenes by issuing a preliminary injunction, each day Class Members will continue to endure severe harm, and their physical and mental health will continue to deteriorate.

Plaintiffs bring this action on behalf of:

- a. a class of similarly situated persons (“Class Members”) whom DOC holds in segregated confinement<sup>1</sup> in violation of the requirements and prohibitions of HALT, on the second floor of the North Infirmity Command (“NIC”) and in the Communicable Disease Unit (“CDU”) in West Facility (“WF”) (together, the “Segregated Cells”); and
- b. a subclass of similarly situated persons (“Subclass Members”) who are also members of a “Special Population” as defined in New York Correction Law § 2.33 (by virtue of age, disability, pregnancy, or post-partum status).

To stop the Class Members’ daily suffering and the cumulative harm from DOC’s illegal use of solitary confinement, this Court should issue a preliminary injunction substantially in the form of the proposed Order submitted herewith, which will do no more or less than to require DOC

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<sup>1</sup> Throughout this brief, we use the terms “solitary confinement” (an older term, still in widespread use) and “segregated confinement” (the current statutory language) interchangeably. *See* N.Y. Correct. L. § 002(23) Gra (“Segregated confinement means the confinement of an incarcerated individual in any form of cell confinement for more than seventeen hours a day other than in a facility-wide emergency or for the purpose of providing medical or mental health treatment.”).

to obey the law in the specifically enumerated respects in which DOC has been violating the law. In this regard, this case is squarely on point with New York Supreme Court precedent holding that, when an agency of the government has failed to meet its statutory responsibilities, the aggrieved parties are entitled to an “obey-the-law” injunction. *See, e.g., Grant v. Cuomo*, 134 Misc. 2d 83, 89-90, 509 N.Y.S.2d 685 (Sup. Ct. N.Y. Cnty. 1986) (when the New York City Department of Social Services had failed to fulfill the statutory responsibility to promptly investigate “all” reports of suspected child abuse, an injunction would issue requiring the Department to comply with the statutory requirement), *aff’d in pertinent part, Grant v. Cuomo*, 130 A.D.2d 154, 200, 518 N.Y.S.2d 105 (1st Dep’t 1987) (“respondents are entitled to an injunction requiring appellants to insure: that all social services workers comply with their statutory duty”); *Grant v. Cuomo*, 73 N.Y.2d 820, 537 N.Y.S.2d 115 (1988) (affirming that the Appellate Division had properly modified the lower court order to deny intervenors’ motion for a preliminary injunction insofar as it would have required the Department of Social Services to take steps not clearly required by statute).

## II. STATEMENT OF FACTS

### A. Solitary Confinement Is an Outdated Practice That Causes Grievous Harm with No Commensurate Penological Benefit.

There is a clear consensus among psychiatrists, psychologists, and penologists that solitary confinement causes great psychological and physiological harm to those who are subjected to it. *Haney Aff.*, ¶¶ 15 (“There is an overwhelming scientific consensus, based on more than five decades of robust empirical research, that solitary confinement . . . [is] not only painful but . . . [the harm and damage it inflicts] are often severe and sometimes irreversible.”), 16, 30, 51. The prolonged isolation of solitary confinement often brings about a ravaging constellation of mental and physical injuries and neurocognitive degeneration, and even shorter terms of solitary

confinement can induce serious harm. *Id.* at ¶ 28 (“there is also evidence that even an initial, brief period in which someone is placed in solitary confinement carries heightened risk of harm”).

**B. New York Enacted HALT to Limit the Use of Solitary Confinement.**

Recognizing the profound harm that solitary confinement causes, in 2021 New York’s elected leaders enacted HALT to strictly curtail its use. HALT defines “solitary confinement” (referred to as “segregated confinement” in the statute) as cell confinement exceeding seventeen hours a day, except in a “facility-wide emergency” or for the purpose of providing medical or mental health treatment. CL § 2(23).

Under HALT, solitary confinement may be “no longer than necessary,” and no longer than three consecutive days in most cases or, for the most serious infractions, no longer than fifteen consecutive days. *Id.*, §§ 137(6)(i), 137(6)(k).

To hold a person in segregated confinement for up to three days, or up to six days in any thirty-day period, HALT requires DOC to conduct an evidentiary hearing pursuant to which it determines that the person has committed a violation of department rules permitting a penalty of segregated confinement. *Id.*, § 137(6)(k)(i).

To subject someone to segregated confinement for longer, DOC must conduct a hearing resulting in (a) a written finding that the person committed one of seven enumerated serious offenses and (b) a written determination by the New York City Commissioner of Correction “based on specific objective criteria (that) the acts were so heinous or destructive that placement of the individual in general population housing creates a significant risk of imminent serious physical injury to staff or other incarcerated persons, and creates an unreasonable risk to the security of the facility.” *Id.*, § 137(6)(k)(ii). HALT also mandates that those properly in segregated confinement receive four hours daily of out-of-cell programming, including an hour of recreation *Id.* §§ 137(6)(k), 137(6)(j)(ii).

In recognition of some people’s greater vulnerability to the harmful effects of isolation, HALT places further restrictions on the confinement of “Special Populations” (including, but not limited to, those with disabilities or who are younger than twenty-two or older than fifty-four), completely prohibiting their placement into segregated confinement “except in keeplock for a period prior to a disciplinary hearing pursuant to paragraph (l) of this subdivision” (which requires a hearing within five days) (*id.* §§ 137(6)(h), 137(6)(l)).<sup>2</sup>

**C. Courts and Oversight Bodies Have Repeatedly Found DOC to Be in Violation of New York Law by Improperly Using Solitary Confinement, Including in the Segregated Cells Involved in This Lawsuit.**

Both before and since HALT came into effect on March 31, 2022, courts and oversight bodies have repeatedly found DOC to be in violation of applicable laws and rules restricting the use of solitary confinement, including in the very facilities that are the subject of this lawsuit.

In 2010, the honorable Justice S. Marcy Friedman of the New York Supreme Court, New York County, issued declaratory relief to people that DOC had confined for up to twenty-three hours per day in “close custody” housing, a form of solitary confinement, in violation of the provision of the Minimum Standards (the “Minimum Standards”) of the New York City Board of Correction (the “BOC”) (which has regulatory authority over DOC) limiting the time that prisoners may be locked in their cells. *In re Jackson v. Horn*, 27 Misc. 3d 463, 474, 895 N.Y.S.2d 633, 640-41 (Sup. Ct. N.Y. Cnty. 2010) (hereinafter, “*Jackson v. Horn*”).

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<sup>2</sup> “Keeplock is defined as the confinement of a person in a general population cell or dorm, or separate keeplock unit, pending a disciplinary hearing.” Lucy Lang, Review of the First Two Years of HALT at the New York State Department of Corrections and Community Supervision (Aug. 2024), at 4 n.5, <https://perma.cc/H3TA-BAWT>. Keeplock is not a term in general use at Rikers.

In 2016, the BOC found that, at WF, DOC was “in violation of several of the Board of Correction’s Minimum Standards by operating West . . . as a restrictive administrative segregation unit.” *See* Letter from Bd. of Corr. to Dep’t of Corr. Re: Notice of Violation of Minimum Standards at West Facility (Sept. 29, 2016) at 1, <https://perma.cc/CZ3Z-7ZQF> (hereinafter, the “2016 BOC Minimum Standards Violations Notice”).

Referring to the court’s findings in *Jackson v. Horn*, the BOC stated that the situation at WF was “akin to DOC’s former operation of ‘close custody’ housing,” which the New York Supreme Court had shut down in 2010, and that those confined in WF had been afforded no due process rights whatsoever before being locked “behind double cell doors and in the cells 23 hours a day.” *Id.* at 3–4. The BOC stated that people at WF “receive their meals through food slots on their inner cell door, and are confined to individual cages for recreation.” *Id.* at 4.

In 2023, the BOC determined that DOC was confining people in “structurally restrictive units” on the second and third floors of NIC “without disciplinary hearings for as long as DOC chooses to keep them there.” Special Investigation Report: New York City Department of Correction’s North Infirmary Command April 6, 2023 Fire (Dec. 22, 2023), at 3, <https://perma.cc/W5AN-U3SR>. Among other things, the report noted that those confined in “restricted housing units” on the second and third floors of NIC were not allowed to congregate with others in a dayroom. *Id.*

In May of 2023, the BOC also found that, “[a]s has been the case since the Board issued a Notice of Violation of Minimum Standards in 2016, the Department continues to place people in custody in the structurally restrictive units at West Facility without due process or periodic placement review.” Hamilton Aff., Exh. 2.

In April 2024, the monitoring team (the “Federal Monitor”) appointed by Chief Judge Laura Taylor Swain in *Nunez v. New York City Department of Correction* (S.D.N.Y.) reported “concerns about the length of stay [in] and the lack of clarity for placement on the NIC units,” referring to the second- and third-floor cells, and recommended that DOC (a) place people in NIC only as a last resort, if at all, and (b) implement “(1) various procedures to ensure adherence to specific placement criteria and procedural due process, and (2) various protections to prevent undue isolation of those assigned to NIC and to safeguard against decompensation”<sup>3</sup> (Status Report at 48-49, *Nunez v. NYC Dep’t of Corr.*, No. 1:11-cv-05845 (S.D.N.Y. Apr. 18, 2024), Dkt. No. 706 (hereinafter, “*Nunez*”).

In November 2024, the Federal Monitor issued a status report recommending the complete elimination of solitary confinement in City jails, including in the NIC cells at issue in this lawsuit:

The Monitoring Team recommends that the Department immediately ensure that solitary confinement is eliminated in Department policy and practice. This includes eliminating the use of cells in NIC with extended alcoves, and any other cells or housing units that contain similar physical properties, that do not permit adequate congregate engagement and access to programming.

Status Report at 277, *Nunez*, No. 1:11-cv-05845 (S.D.N.Y. Nov. 22, 2024), Dkt No. 802.

Pursuant to a April 2023 settlement, New York City paid \$49,130,750 to a class of incarcerated persons who alleged that, “without due process and for illegitimate purposes,” they had been locked in their cells, the very cells that are the subject of this lawsuit, for twenty-three to twenty-four hours a day. *Miller v. City of New York*, No. 21-cv-2616, 2024 WL 5183184, \*4 (S.D.N.Y. Dec. 19, 2024).

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<sup>3</sup> “The American Psychological Association defines decompensation as ‘a breakdown in an individual’s defense mechanisms, resulting in progressive loss of normal functioning or worsening of psychiatric symptoms.’” *Oxner v. Kijakazi*, No. 120CV03066TSCZMF, 2022 WL 17370199, at \*7 n.4 (D.D.C. Aug. 5, 2022).

**D. DOC Continues to Keep People in Solitary Confinement Without Complying with the Requirements and Prohibitions of HALT.**

Notwithstanding the enactment of HALT and the repeated condemnations of DOC's unlawful and improper use of solitary confinement by courts and oversight bodies, DOC now confines approximately ninety-one Class Members for twenty-three hours a day or more, in some of the very same cells that courts and regulators have previously identified as sites of unlawful solitary confinement.

On the second floor of NIC, each person is in his own isolated cell, which has two adjoining sections, a sleeping portion and a small extension. Foster Aff. ¶ 7. The inner sleeping portion has cinder block walls on three sides. The outer extension is bounded by bars covered on the outside with a thick, metal mesh. Hamilton Aff., Exh. 1. Between the two sections is a door, which is generally kept open.

In the WF CDU, each person is in his own isolated cell, behind thick metal doors with a small window, making it difficult to summon help if needed. In most CDU housing units there is no medical staff. As in NIC, WF CDU cells are divided into two sections separated by a solid door, which generally remains open.

In all these cells, the Class Members are isolated; they cannot clearly see or speak with anyone else. They get their meals through slots in the cell doors, and they eat alone. Although, under HALT, even those in solitary confinement are entitled to at least an hour a day of recreation, DOC often cancels or does not offer Class Members recreation time. Catala Aff. ¶ 11; Young Aff. ¶ 6; Elder Aff. ¶ 6. Even when they are offered recreation, for Class Members, "recreation" means being locked alone for an hour in a cage on a blacktop with no recreational equipment. *See* Catala Aff. ¶ 11; Vasquez Aff. ¶ 9.

Like all Class Members, Subclass Members are confined in isolated cells for twenty-three hours a day or more. They include wheelchair-bound people; people with broken legs; people who rely on canes, crutches or other assistive devices; people with chronic illnesses like diabetes, lupus, or heart disease; people requiring the use of a Continuous Positive Airway Pressure machine for sleep apnea; and people with mental health disabilities including post-traumatic stress disorder, depression, schizophrenia, and bipolar disorder. *See* Elder Aff. ¶ 7 (Mr. Elder uses a wheelchair); Catala Aff. ¶ 7 (Mr. Catala has a prosthetic leg, high blood pressure, and asthma); Young Aff. ¶¶ 7, 8 (Mr. Young has stomach cancer and uses a wheelchair); Luttman Aff. ¶ 6 (Mr. Luttman requires an ileostomy bag to collect his stool. He also suffers from a rare heart condition, Crohn's disease, migraines, depression, anxiety, and a civilian adjustment disorder stemming from his time in military service); Campbell Aff. ¶¶ 2-4, 8-9 (Mr. Campbell is in a wheelchair, recently underwent surgery for a fractured hip and blood clot, has been diagnosed with heart failure, depression, and anxiety). Because Special Populations (including all Subclass Members) are particularly vulnerable to the harmful effects of isolation, HALT provides special protections for them, including a nearly categorical ban on placing them in segregated confinement.

Although the units in WF CDU were designed to house people with infectious airborne diseases, and portions of NIC (not the cells at issue here) are used as an infirmary, DOC holds Class Members in these cells for reasons that have nothing to do with the need to separate people with infectious diseases from the general population or to provide medical or mental health care. The Segregated Cells are not designed to accommodate those with disabilities. In the event of a medical emergency, Class Members face significant medical risks, as they are forced to shout and bang on their windows to attract the attention of DOC staff. *See* Campbell Aff. ¶ 5; Vasquez Aff.

¶ 14. Indeed, some people in the Segregated Cells report receiving little to no medical attention for their conditions.

### III. ARGUMENT

To obtain a preliminary injunction, a movant must demonstrate: “(1) a likelihood of ultimate success on the merits; (2) the prospect of irreparable injury if the provisional relief is withheld; and (3) a balance of equities tipping in the moving party’s favor.” *Doe v. Axelrod*, 73 N.Y.2d 748, 750, 536 N.Y.S.2d 44, 45, 532 N.E.2d 1272 (1988) (citation omitted); *see also* New York Civil Practice Law & Rules (“CPLR”) § 6301 (“A preliminary injunction may be granted . . . where it appears that the defendant[ ] . . . is doing . . . an act in violation of the plaintiff’s rights[,]. . . which, if committed or continued during the pendency of the action, would produce injury to the plaintiff.”); *see also Bd. of Higher Ed. of City of New York v. Marcus*, 63 Misc. 2d 268, 272, 311 N.Y.S.2d 579 (Sup. Ct. Kings Cnty. 1970) (“The prevailing rule is that where the rights of parties are clear, the courts should interfere to prevent a violation of the rights, instead of allowing the rights to be violated and the wrong committed.”); *Chernoff Diamond & Co. v Fitzmaurice, Inc.*, 234 App. Div. 2d 200, 201, 651 N.Y.S.2d 504 (1st Dep’t 1996). The fact that the defendant presents evidence raising an issue of fact “shall not in itself be grounds for denial of the motion,” provided that “the elements required for the issuance of a preliminary injunction are demonstrated in the plaintiff’s papers.” CPLR 6312(c).

#### A. Continued Solitary Confinement Will Irreparably Harm the Class Members.

Under the irreparable injury prong, “Plaintiffs and the class only have to demonstrate ‘a potential’ that irreparable injury will result if a preliminary injunction is not awarded to them.” *Brad H. v. City of N.Y.*, 185 Misc. 2d 420, 430, 712 N.Y.S.2d 336, 344 (Sup. Ct., N.Y. Cnty. 2000).

In this case, there is much more than “a potential” for irreparable injury: with every passing day, Class Members are being significantly harmed. Each day Class Members spend isolated in solitary confinement not only prolongs their suffering but increases their risk of serious, often irreversible psychological and physical damage. Haney Aff. ¶ 53.

As DOC continues to ignore court mandates, BOC rules, and the limitations and requirements of HALT, Class Members languish in their cells for at least twenty-three hours a day, some for months at a time, suffering the punishing effects of this isolation. They are experiencing acute psychological and physical harm caused by the isolation DOC has imposed on them. *See* Campbell Aff. ¶ 9 (“My depression worsened dramatically while being locked up.”); Foster Aff. ¶ 8 (“I am idle all day. I spend most of my day depressed and lying down . . . .”); Luttman Aff. ¶ 14 (“Keeping your sanity is tough. I struggle to keep myself regulated. The medical conditions make this even harder. The isolation is not good for my mental health, especially my adjustment disorder from my time in the service which makes it hard for me to acclimate to civilian life.”); Catala Aff. ¶¶ 12, 13 (“It stresses me out to be in here all day by myself because I don’t get to interact with anyone and I always keep thinking about a lot of stuff. . . . Because of the isolating conditions in WF CDU, I have trouble falling asleep so I only get three to four hours of sleep a night.”); Vasquez Aff. ¶ 20 (“Being stuck in the CDU made me so depressed, I cried all the time. Every day I was thinking it would be easier to kill myself than face another day.”).

Restrictive confinement greatly increases the risks of self-harm and suicide. Haney Aff. ¶¶ 15, 22, 23, 26; *see* Fatos Kaba et al., *Solitary Confinement and Risk of Self-Harm Among Jail Inmates*, 104 AM. J. PUB. HEALTH 442, 445 (2014) (people in solitary are 6.9 times more likely to harm themselves than those in general population); Bruce B. Way et al., *Factors Related to Suicide in New York State Prisons*, 28 INT’L J. L. & Psychiatry 207, 211, 218 (2005) (thirty percent of

New York state prison suicides occurred in special housing units or administrative segregation, while only four percent of the prison population were housed in special housing units); *Review of Completed Suicides in the California Department of Corrections and Rehabilitation, 1999 to 2004*, 59 PSYCHIATRIC SERVS. 676, 678 (2008) (about half of suicides in California prisons occurred in solitary confinement).

Exposing Class Members to this risk alone warrants preliminary relief, for “(t)he ultimate relief may be rendered inadequate, as the loss of one life would render permanent injunctive relief, granted at a later date, ineffective.” *Doe v. Dinkins*, 192 A.D. 2d 270, 275, 600 N.Y.S.2d 939 (1st Dep’t 1993); *see Bingham v. Struve*, 184 A.D. 2d 85, 89–90, 591 N.Y.S.2d 156 (1st Dep’t 1992) (finding increased risk of serious psychological and emotional damage constituted irreparable harm); *Shapiro v. Cadman Towers, Inc.*, 51 F. 3d 328, 332–33 (2d Cir. 1995) (same as to increased risks of injury, infection, and humiliation).

As long ago as the nineteenth century, the U.S. Supreme Court vividly described the horrific effects of solitary confinement on the bodies and minds of prisoners subjected to it in the Wall Street Penitentiary in Philadelphia:

A considerable number of the prisoners fell, after even a short confinement, into a semi-fatuous condition, from which it was next to impossible to arouse them, and others became violently insane; others, still, committed suicide, while those who stood the ordeal better were not generally reformed, and in most cases did not recover sufficient mental activity to be of any subsequent service to the community.

*In re Medley*, 134 U.S. 160, 168 (1890).

Today, there is a clear scientific consensus that solitary confinement causes severe, irreparable physical and mental harm, sometimes to the point of driving the victims to suicide.<sup>4</sup>

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<sup>4</sup> Tragically, suicides at Rikers are all too common, and people who have been kept in segregated confinement are the most likely to take their own lives. *See* authorities cited in section III.A., pp.

See Haney Aff. ¶ 23 (“virtually every study of the topic has found that suicide and rates of self-harm are significantly higher in solitary confinement than in other prison settings”); Craig Haney, *Restricting the Use of Solitary Confinement*, 1 ANN. REV. CRIMINOLOGY 285, 290–91 (2017) (describing symptoms including psychosis, depression, paranoia, and insomnia from prolonged solitary confinement); Stuart Grassian, *Psychiatric Effects of Solitary Confinement*, 22 WASH. UNIV. J. L. & POLICY 325, 331, 335–37 (2006) (describing acute neurocognitive degeneration or “mental torpor” and “isolation delirium” resulting from solitary confinement); Sharon Shalev, *A Sourcebook on Solitary Confinement* 15 (2008) (describing heart palpitations, insomnia, and tremors caused by solitary confinement); Peter S. Smith, *The Effects of Solitary Confinement on Prison Inmates*, 34 CRIME & JUST. 441, 480–81 (2006) (describing different studies on the effects of solitary confinement most of which find deteriorating mental and physical health among prisoners in isolated housing); Craig Haney, *Mental Health Issues in Long-Term Solitary and*

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10 et seq., below, on studies confirming that solitary confinement vastly increases the risk of suicide.

Recent, tragic examples of deaths associated with segregated confinement include the June 7, 2019 suicide of Layleen Xtravaganza Cubilette-Polanco, who took her own life “in a cell in the Restrictive Housing Unit (RHU), a form of punitive segregation . . . (also known as solitary confinement) . . . on Rikers Island.” BOC Report, *The Death of Layleen Xtravaganza Cubilette-Polanco* (June 23, 2020), <https://perma.cc/2DSJ-P23P>. BOC cited DOC negligence and lack of training blamed as contributing factors (Ms. Polanco was left alone, unobserved, for much too long).

Similarly, in connection with the August 10, 2021 suicide death of Brandon Rodriguez, the Medical Review Board concluded that Mr. Rodriguez “(had) never . . . (been) properly classified and was not placed in a proper authorized housing area in accordance with NYS Minimum Standard” and “that had Rodriguez been properly admitted, classified, housed, and supervised in accordance with minimum standard requirements, his death could have been prevented.” Final Report of the New York State Commission of Correction: *In the Matter of the Death of Brandon Rodriguez*, an incarcerated individual of the Otis B. Bantum Center to Commissioner Louis Molina NYC Department of Correction (June 28, 2023), <https://perma.cc/R24Y-2GXZ>.

“*Supermax*” Confinement, 49(1) CRIME & DELINQUENCY 124, 133–37 (2003) (in this study, more than half of isolated prisoners experienced nearly every symptom of psychological distress such as anxiety, chronic lethargy, emotional breakdown, depression, hallucinations, and suicidal thoughts).

Prolonged isolation causes a host of long-lasting and potentially irreversible conditions, including PTSD and various chronic mental and physical ailments, damage to the functioning of the immune system, and generally deteriorating mental and physical health (beyond physical injury), lower life expectancy and far great likelihood of death by opioid overdose in the first two weeks after being released. See Haney Aff. ¶ 20 (“solitary confinement survivors suffer post-prison adjustment problems at higher rates than the already high rates experienced by formerly incarcerated persons in general, including being more likely to manifest symptoms of PTSD”), ¶¶ 22, 27 (according to a five-year study of more than 200,000 people released from state prison, not only is there “evidence that the stressfulness and long-term damage that is inflicted by solitary confinement can adversely affect someone’s life expectancy . . . [but] researchers found that those who spent *any* time in solitary-type confinement . . . were 24% more likely to die in the first year after release.”) (emphasis in original), ¶ 32 (“extensive research documenting the harmful psychological effects of solitary confinement, the adverse *physical* effects are also well-documented. For example, the kind of extreme social isolation imposed in solitary confinement units has been shown to adversely impact the functioning of the human immune system and to undermine health outcomes in general”); *John E. Andrus Mem., Inc. v. Daines*, 600 F. Supp. 2d 563 (S.D.N.Y. 2009) (finding increased risks of cognitive impairment, morbidity, and mortality constitute irreparable harm); *L.V.M. v. Lloyd*, 318 F. Supp. 3d 601 (S.D.N.Y. 2018) (same as to increased risk of long-term depression, anxiety, and PTSD); Brian O. Hagan et al., *History of*

*Solitary Confinement Is Associated with Post-Traumatic Stress Disorder among Individuals Recently Released from Prison*, 95 J. URBAN HEALTH 141, 146–47 (2018); Jules Lobel & Huda Akil, *Law & Neuroscience: The Case of Solitary Confinement*, 147(4) DAEDALUS 61, 69–70 (2018) (describing shrinking of hippocampus as a result of exposure to solitary confinement); Brie Williams et al., *The Cardiovascular Health Burdens of Solitary Confinement*, 34(10) J. GEN. INT’L MEDICINE 1977, 1977 (2019) (describing hypertension arising from same). A heightened risk of premature death follows survivors of solitary confinement even after they are released from incarceration. Researchers have found that exposure to restrictive housing is correlated with markedly higher rates of death by suicide, opioid overdose, and homicide in the community after release. Lauren Brinkley-Rubenstein et al., *Association of Restrictive Housing During Incarceration With Mortality After Release*, JAMA NETWORK OPEN, at 8–9 (2019); see also *John E. Andrus Mem., Inc.*, 600 F. Supp. 2d 563; *Oxford House, Inc. v City of Albany*, 819 F. Supp. 1168, 1173 (N.D.N.Y. 1993) (increased risk of relapse into addiction constitutes irreparable harm).

As the U.S. Court of Appeals for the Second Circuit recently wrote, in reversing a grant of summary judgment in favor of prison guards and prison officials,

The physical and psychological hardship faced by individuals in solitary confinement has regularly been recognized by the courts and by international bodies. The “[y]ears on end of near-total isolation exact a terrible price” and, in many cases, induce severe psychiatric symptoms. *Davis v. Ayala*, 576 U.S. 257, 286-90 . . . (2015) (Kennedy, J., concurring). Solitary confinement can also cause physical harm, both due to “high rates of suicide and self-mutilation” and “the lack of opportunity for free movement” causing “more general physical deterioration.” . . . State legislatures, the ABA, and international organizations have recognized these harms and worked to prevent overuse of the practice. . . .

In view of these documented extreme effects, courts have regularly held that the Due Process Clause protects incarcerated individuals against the unjustified use of solitary confinement . . . .

*Walker v. Bellnier*, 146 F.4th 228, 233–34 (2d Cir. July 25, 2025) (some citations omitted).

Recognizing that such harms are irreparable, courts have granted preliminary relief ordering release of people from isolated confinement. *See, e.g., Jolly v. Coughlin*, 76 F.3d 468, 482 (2d Cir. 1996) (because of what the Court of Appeals characterized as “a serious deprivation of basic human needs,” affirming order granting preliminary injunction and ordering plaintiff’s immediate release from keeplock);<sup>5</sup> *see also V.W. by and through Williams v. Conway*, 236 F. Supp. 3d 554, 588–89 (N.D.N.Y. 2017) (finding irreparable injury, given the “substantial, convincing evidence that . . . continued use of solitary confinement on juveniles puts them at serious risk of short- and long-term psychological damage”); *Reynolds v. Arnone*, 402 F. Supp. 3d 3, 44–45 (D. Conn. 2019) (finding irreparable harm due to “condition of confinement pos(ing) a serious, continuing risk of harm to (plaintiff’s) mental health.”), *vacated in part on other grounds*, 990 F.3d 286 (2d Cir. 2021); *Doe by and through Frazier v. Hommrich*, No. 3-16-0799, 2017 WL 1091864,\*2 (M.D. Tenn. 2017) (irreparable harm established because “(t)he harm suffered in solitary confinement is not harm easily undone”).

Noting that “(s)tudies have consistently found that subjecting people to segregated confinement for twenty-two to twenty-four hours a day without meaningful human contact, programming, or therapy can cause deep and permanent psychological physical developmental and social harm,” New York enacted HALT precisely to prevent the continued infliction of the severe harms resulting from solitary confinement. S.B. S2836, 2021 Gen. Assemb., Reg. Sess. (N.Y. 2021), [nysenate.gov/legislation/bills/2021/s2836](https://nysenate.gov/legislation/bills/2021/s2836). Similarly, in considering the proposal that

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<sup>5</sup> In *Jolly*, finding that the plaintiff, whose confinement “deprive[d] him of all meaningful opportunity for exercise,” had established irreparable harm and was likely to succeed on the merits of his Eighth Amendment claim for cruel and unusual punishment, U.S. District Court Judge John Koeltl granted plaintiff’s motion for a preliminary injunction forbidding the New York Department of Corrections and Community Supervision (“DOCCS”), during the pendency of the action, from holding the plaintiff in solitary confinement. *Jolly v. Coughlin*, 894 F. Supp. 734, 748-49 (S.D.N.Y. 1995) *aff’d*, *Jolly v. Coughlin*, 76 F.3d 468, 482 (2d Cir. 1996).

would become Local Law 42, “[a]fter engaging in extensive research and inquiry, and after receiving input and testimony from numerous impacted New Yorkers, the New York City Council found that solitary confinement and similar severe restrictions of movement in the City’s jails were inhumane and dangerous.” Petition, *Council of the City of New York v. Adams*, No. 161499/2024 (N.Y. Sup. Ct. N.Y. Cnty.), (Dec. 9, 2024), Dkt. No. 1.<sup>6</sup> Thus, for both the State Legislature and the New York City Council, the need for these laws was grounded in recognition, informed by extensive scientific evidence, of the irreparable harms that solitary confinement causes.

Subclass Members, who are members of Special Populations, face even higher risk of greater harm. For Subclass Members, the consequences of solitary confinement are the epitome of irreparable injury, the “single most important prerequisite” for preliminary injunctive relief. *Cyprium Therapeutics, Inc. v. Curia Glob., Inc.*, 81 Misc. 3d 1238(A), 203 N.Y.S.3d 471 (Sup. Ct. Albany Cnty. 2022) (“a showing of probable irreparable harm is the single most important prerequisite” for a preliminary injunction) (internal quotation marks and citations omitted).

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<sup>6</sup> Since its effective date, Local Law 42 has been tied up in New York City politics and in litigation. On January 30, 2024, the New York City Council passed Local Law 42, overriding the Mayor’s veto of the measure. Although, on June 25, 2024, the Board of Correction incorporated Local Law 42’s requirements into its Minimum Standards, Mayor Adams then signed Emergency Executive Orders No. 624 and 625, purporting to suspend the law’s effectiveness. The City Council sued Mayor Adams, challenging his authority unilaterally to suspend Local Law 42. Petition, *Council of the City of New York v. Adams*, No. 161499/2024, (Sup. Ct. N.Y. Cnty. Dec. 9, 2024), Dkt. No. 1. On June 30, 2025, Justice Jeffrey Pearlman issued his decision, vacating the emergency executive orders. Subsequently, to give the *Nunez* Monitor more time to assess whether Local Law 42 conflicts in any way with her orders in *Nunez*, Chief Judge Swain issued a Temporary Restraining Order against the implementation of Local Law 42. *Nunez*, (July 2, 2025), Dkt. No. 875. Most recently, Chief Judge Swain granted the motion to intervene of the New York City Council and the New York Public Advocate. *Nunez*, (July 28, 2025), Dkt. No. 892.

Solitary confinement of the type occurring in WF and NIC inflicts significant trauma on its victims. It can induce psychosis that causes acute organic brain damage, symptoms of hypersensitivity to stimuli, perceptual distortions such as hallucinations, panic attacks, difficulty with thinking and memory, intrusive obsessional thoughts, overt paranoia, depression, anxiety, suicidal ideation, self-mutilation, and violent acts. See, e.g., Foster Aff. ¶ 8; Campbell Aff. ¶ 9; Luttman Aff. ¶ 14; Catala Aff. ¶ 13.

From (i) the accompanying affirmations of Class Members documenting the ailments they are experiencing as a result of their solitary confinement and (ii) the scientific consensus that solitary confinement inevitably results in grievous harm, as documented in Dr. Haney's accompanying Affidavit and the scientific literature cited above, there can be no doubt that each day of Class Members' continuing solitary confinement exacerbates the Class Members' suffering and the serious physical, neurological and psychological risks and harms they endure. See Haney Aff. ¶¶ 18 (solitary confinement "can be as clinically distressing as physical torture" and, indeed, "is frequently used as a component of torture"), ¶ 28 ("The longer a person is kept in solitary confinement, the more likely the adverse psychological consequences and dysfunctions are to occur and become irreversible."), ¶ 45 (an American Psychiatric Association paper "underscores the universally accepted principle that time matters, and that the longer someone is exposed to the stressful, traumatic, and toxic environment of jail or prison isolation the worse its effects and the greater the risks of more serious harm"), ¶ 52 (based on a few basic assumptions documented in Haney Aff., ¶¶ 4.a.-e.—the truth of which is attested to in the accompanying affirmations and will be established in the litigation—"I am of the opinion that members of the proposed class are at imminent risk of the adverse physical and psychological effects that I and other researchers mentioned above have identified as being associated with solitary confinement or, for those Class

Members already suffering from such maladies, of the continued aggravation and worsening of those conditions.”), ¶ 53 (“Every day that someone remains in solitary confinement not only prolongs their suffering, but increases the risk of serious, often irreversible psychological and physical damage.”). *See* Campbell Aff. ¶ 9; Foster Aff. ¶ 8; Luttman Aff. ¶ 14; Catala Aff. ¶¶ 12, 13; Vasquez Aff. ¶ 20.

There can hardly be more certain or more serious imminent irreparable injury.

**B. Plaintiffs Are Likely to Succeed on the Merits.**

**1. Class Members Will Likely Succeed on the First Cause of Action.**

Defendants’ conduct described above is a straightforward violation of HALT, which proscribes “the confinement of an incarcerated individual in any form of cell confinement for more than seventeen hours a day other than in a facility-wide emergency or for the purpose of providing medical or mental health treatment.” The affidavit and affirmations filed with this motion show that, without any administrative evidentiary hearing or the statutorily required findings, DOC confines Class Members in their cells for twenty-three or more hours a day, for weeks and months on end, without the statutorily required four hours of programming. As set forth above, courts and oversight bodies have repeatedly found that the use of these units to confine people for more than twenty-three hours a day is unlawful. Once again, DOC is flouting the law and previous orders of courts and regulators. For these reasons and the reasons explained above, Class Members are likely to succeed on the merits of the First Cause of Action.

**2. Subclass Members Will Likely Succeed on the Second Cause of Action.**

Defendants’ conduct is a straightforward violation of the HALT provision forbidding the placement of persons in Special Populations in segregated confinement for any amount of time, except in keeplock for a period of no more than five days before a disciplinary hearing. *See* § II.B.

at p.4, above. Defendants are unlawfully holding the Subclass Members in segregated confinement, even though they are members of a statutorily protected Special Population. For this reason, Subclass Members are likely to succeed on the merits of the Second Cause of Action.

**C. The Balance of Equities Tips Decidedly in Favor of the Class Members.**

Class Members have a compelling interest in immediately bringing an end to the disastrous consequences of segregated confinement. The Class Members' suffering is real and present, as is the virtual certainty that their physical and mental conditions will deteriorate further if they continue to be held in these inhumane conditions.

As for DOC, over many years it has been advised, cajoled, warned, and ordered by courts and regulators to stop doing what it is doing to the Class Members: keeping them in cells for 23 hours a day or more, without a hearing or any due process, and without affording them the required programming and recreation. In 2010, in *Jackson v. Horn*, Justice Friedman issued declaratory relief to people DOC held in solitary confinement for twenty-three hours per day in violation of applicable law. DOC has had more than fifteen years to get its act together. Instead, DOC has continued its long history of non-compliance with court orders and BOC mandates.

Most recently, as a result of DOC's intransigence, resistance, and repeated non-compliance with court orders over many years, Chief Judge Laura Taylor Swain of the U.S. District Court for the Southern District of New York cited DOC for eighteen instances of contempt:

. . . Defendants (i) are in contempt of eighteen core provisions of the *Nunez* Orders (the "Contempt Provisions") "that have gone unheeded for years and . . ." . . . ; (ii) "have not demonstrated diligent attempts to comply with the Contempt Provisions in a reasonable manner" . . . ; and (iii) have repeatedly and consistently failed to remediate the violations of the federal rights of incarcerated people that necessitated entry of the Consent Judgment . . . .

*Nunez v. NYC Department of Correction*, 782 F. Supp. 3d 146, 182 (S.D.N.Y. 2025).

Given the repeated warnings and orders by courts and regulators about DOC's unlawful use of solitary confinement, including in the very cells and in the manner at issue in this case, and given DOC's history of non-compliance with court orders and its continuing bad faith vis-à-vis courts and the BOC alike, DOC is hardly in a position to argue that the balance of equities tips in its favor or that it will suffer serious hardship when it is, once again, ordered to do what the law mandates. *Cf. Doe v. Dinkins*, 192 A.D.2d 270, 600 N.Y.S.2d 939 (1st Dep't 1993) (hereinafter, "*Dinkins*") (where, in assessing the balance of hardships, the Appellate Division declined to credit alleged hardships resulting from the City's failure, over twelve years, to comply with the law setting maximum limits on shelter occupancy). In *Dinkins*, the Appellate Division wrote:

The balance of equities also lies in the plaintiffs' favor. . . . The City has been aware of the overcrowded conditions for more than a decade, but has taken no concrete steps to resolve the problem, despite being warned repeatedly and threatened with sanctions. The NYCRR regulation limiting beds at a shelter to 200 was issued as guidelines in 1981. The City failed to make a diligent search for other facilities to be utilized as homeless shelters. ***The defendants' claim of hardship because of the court's directive is, therefore, negated by the notice and warnings they have received. That hardship was caused by their own inaction.***

*Id.*, 192 A.D.2d 276, 600 N.Y.S.2d 943 (emphasis added). Here, as in *Dinkins*, any hardship that the defendants may suffer in complying with the proposed injunction "was caused by their own inaction."

Undoubtedly, complying with HALT, which may require relocating Class Members, will require some work and expense. But the physical and mental harms that Class Members would suffer from continued unlawful solitary confinement dwarf any administrative and financial burden DOC incurs to comply with the law. *Cf. Dinkins* 192 A.D.2d at 275-276 (upholding Supreme Court's grant of injunction ordering City to reduce number of men in homeless shelters because "[h]uman safety is at issue . . . [and a]ny inconvenience caused by compliance is outweighed by the harm which would be suffered otherwise"); *Brad H. v. City of New York*,

185 Misc. 2d 420, 712 N.Y.S.2d 336 (Sup. Ct. N.Y. Cnty. 2000) (granting preliminary injunction requiring jails to provide legally mandated discharge planning to inmates who, without it, would likely suffer mental and physical deterioration, because “[t]he comparative harm [to the Plaintiffs] is greater . . . than any increase in bureaucratic work and cost to defendants”) (citation omitted), *aff’d*, 276 A.D.2d 440, 716 N.Y.S.2d 852 (1st Dep’t 2000).

**IV. CONCLUSION**

For the reasons cited herein, Plaintiffs respectfully request that this Motion be granted in all respects.

Dated: September 25, 2025

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

The Memorandum of Law in Support of Plaintiffs' Motion for Preliminary Injunction was prepared in the Microsoft Word processing system, with Times New Roman typeface, 12-point font.

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I therefore certify that the foregoing Memorandum of Law conforms with Rule 202.8-b of the Uniform Civil Rules for the Supreme Court in that it does not exceed 7,000 words, exclusive of caption, table of contents, table of authorities and signature block.

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