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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

8 Christopher Joshua Howie, an

9 individual,

10 Plaintiff

11 v.

12 Nevada County, California, a county

13 government and operator of the

14 Nevada County Sheriff's Department;

15 and the following persons both as

16 individuals and in their capacity as

17 officials, employees or contractors of

18 Nevada County:

19 Sheriff Keith Royal;

20 Deputy Adam Grizzell;

21 Deputy Jennifer McCormack; and

22 Does 1-25;

23 And

24 Correctional Medical Group

25 Companies, Inc.; and

26 Andrea Boucher;

27 Jessica Limme;

28 Jordan Dean;

Laurie Adams; and

Does 26 through 30;

CASE NO.: 2:18-CV-

**COMPLAINT FOR INDIVIDUAL,
SUPERVISORY, AND MUNICIPAL
VIOLATIONS OF 42 U.S.C. §1983;
STATE LAW CLAIMS FOR
INTENTIONAL INFLICTION OF PAIN
AND INTENTIONAL INFLICTION OF
EMOTIONAL DISTRESS,
VIOLATIONS OF CALIFORNIA CIVIL
CODE §52, RESPONDEAT SUPERIOR
LIABILITY AND MEDICAL
MALPRACTICE**

JURY TRIAL DEMANDED

1
2 And
3 Officer John Hererra of the Grass
4 Valley Police Department, City of
5 Grass Valley; and
6 Does 31 to 40,
7 Defendants.

8
9 **I.**
INTRODUCTION

10 This is a civil rights action arising out of the brutal and senseless use of force
11 upon Plaintiff Christopher Joshua Howie by Nevada County Sheriff's Department
12 ("NCSD") and Grass Valley Police Department ("GVPD") personnel that resulted in
13 the serious displaced fracture of Plaintiff's right leg. Despite the obvious injury to
14 Plaintiff's leg, he was then put into wrist and ankle chains and dumped into a cell.
15 Plaintiff pleaded for medical attention all night, and despite multiple visits by
16 Correctional Medical Group Companies, Inc. ("CMGC") personnel, Plaintiff was
17 denied any medical treatment. The next morning, NCSD and CMGC personnel
18 rolled Plaintiff out the back door of the jail in a wheel chair, set him down on the
19 curb, and left him to call his own ambulance.

20 **II.**
JURISDICTION AND VENUE

21 1. Jurisdiction over the federal causes of action under Title 42 U.S.C. §1983 are
22 proper in this Court under 28 U.S.C. §1331. Pendant Jurisdiction over the state
23 causes of action is proper under Title 28 U.S.C. §1367(a) and Title 28 U.S.C.
24 §1343(a)(3).

25 2. Venue is proper in this Court under 28 U.S.C. §1391(b) because all of the
26 defendants reside, and the acts complained of occurred, within the territorial
27

1 boundaries of this United States District Court.

2 3. Intra-district venue is proper in the Sacramento Division of this Court under
3 Local Rule 120(d) because the acts and omissions that are the basis of this
4 complaint occurred within Nevada County.

5
6 **III.
PARTIES**

7 4. Plaintiff Christopher Joshua Howie (“Howie”) was a single male, age 41 at
8 the time of the events alleged in this Complaint. As of the date of filing of this
9 Complaint, Plaintiff Howie resides at 16858 Lena Court, Grass Valley, CA 95945.

10 5. Defendant Nevada County, California, established and operates the Nevada
11 County Sheriff’s Department (“NCSO”) which is responsible for the staffing and
12 operation of the Jail at 925 Maidu Ave, Nevada City, CA 95959 (“Jail”, aka Wayne
13 Brown Correctional Facility). Plaintiff is informed and believes, and on that basis
14 alleges, that the NCSO contracts with California Forensic Medical Group, Inc. to
15 provide medical care to the inmates at the Jail.

16 6. Defendant Keith Royal (“Royal”) was the Sheriff and in command of the
17 NCSO at the time of the incidents alleged below.

18 7. Defendant Deputy Adam Grizzell (“Grizzell”) was employed by the NCSO and
19 was working as a deputy sheriff at the time of the events alleged below.

20 8. Defendant Deputy Jennifer McCormack (“McCormack”) was employed by the
21 NCSO and was working as a correctional officer at the Jail in a supervisory capacity
22 at the time of the events alleged below.

23 9. Defendant Correctional Medical Group Companies, Inc. is a Delaware
24 corporation qualified to do business in California (Corporation No. C3521984) with
25 its principal executive office located at 3911 Sorrento Valley Boulevard, Suite 130,
26 San Diego, CA 92121, and its principal business office at 2511 Garden Road, Suite
27

1 A160, Monterey, CA 93940. Plaintiff is informed and believes, and on that basis
2 alleges, that Correctional Medical Group Companies, Inc. either owns and/or
3 controls a business in California named California Forensic Medical Group, Inc. or
4 CFMG, Inc. (Corporation No. C1054341 FTB suspended) such that these two
5 corporate entities are the alter ego of each other (collectively “CMGC”). Plaintiff is
6 further informed and believes, and on that basis alleges, that Defendant Nevada
7 County has had a contract with CMGC (or its alter ego CFMG) to provide medical
8 services for detainees and inmates at Jail at all relevant times to this Complaint.

9 10. Plaintiff is informed and believes, and on that basis alleges, that Defendant
10 Andrea Boucher (“Boucher”) was employed by CMGC as a nurse with responsibility
11 at the Jail for medical examination of detainees and inmates at the time of booking,
12 during incarceration, and before release from the Jail.

13 11. Plaintiff is informed and believes, and on that basis alleges, that Defendant
14 Jessica Limme (“Limme”) was employed by CMGC as a nurse with responsibility at
15 the Jail for medical examination and care of detainees and inmates at the time of
16 booking, during incarceration, and before release from the Jail.

17 12. Plaintiff is informed and believes, and on that basis alleges, that Defendant
18 Jordan Dean (“Dean”) was employed by CMGC as a nurse with responsibility at the
19 Jail for medical examination and care of detainees and inmates at the time of
20 booking, during incarceration, and before release from the Jail.

21 13. Plaintiff is informed and believes, and on that basis alleges, that Defendant
22 Laurie Adams (“Adams”) was employed by CMGC as a nurse with responsibility at
23 the Jail for medical examination and care of detainees and inmates at the time of
24 booking, during incarceration, and before release from the Jail.

25 14. Defendant Officer John Herrera (“Herrera”) was employed by the Grass
26 Valley Police Department (“GVPD”) of the City of Grass Valley (“Grass Valley”), a
27

1 California municipal corporation located within Nevada County. Based upon the
2 Incident Report prepared by Defendants Grizzell and McCormack, a true and
3 correct copy of which is attached hereto as Exhibit 2, Defendant Hererra was the
4 law enforcement officer that arrested Plaintiff, brought Plaintiff to the Jail, and
5 assisted Deputy Grizzell with the intake of Plaintiff on the relevant date.

6 15. The true names and capacities of defendants sued herein as Does 1-40,
7 inclusive, whether individual, corporate, or otherwise are unknown to Plaintiff who,
8 therefore sues such defendants by such fictitious names. When their true names
9 and capacities are ascertained, Plaintiff will amend this complaint by asserting
10 their true names and capacities herein. Plaintiff is informed, believes and thereon
11 alleges, that at all times herein mentioned, all defendants, including Does 1
12 through 40, inclusive: (i) are qualified to do business in California, and/or did, in
13 fact, do business in California; (ii) jointly perpetrated the acts herein with their
14 co-defendants; (iii) were the successors in interest to, or agents, alter egos,
15 principals, co-tenants, partners, joint venturers, or co-conspirators of their
16 co-defendants in doing the things herein alleged; and/or (iv) were acting within the
17 scope of their authority or in furtherance of a common scheme or design with the
18 knowledge, permission, consent or ratification of their co-defendants in doing the
19 things herein alleged, and therefore are liable, jointly and severally, for all damages
20 and other relief or remedies sought by complainants in this action.

21 **IV.**
22 **BACKGROUND ALLEGATIONS**

23 **Duties of Nevada County, the NCSD, and CMGC**

24 16. Defendant Nevada County and the NCSD are obligated to have policies,
25 practices, and procedures to: (a) prevent the unlawful use of force against detainees
26 and inmates; and (b) provide timely and effective response to the medical needs of
27 inmates (“PPPs”).

1 17. Defendant Nevada County and the NCSD are obligated to adequately train
2 their deputy sheriffs and other correctional officers: (a) in the lawful use of force
3 with detainees and inmates; and (b) the timely and effective response to the medical
4 needs of detainees and inmates.

5 18. Defendant Nevada County and the NCSD are obligated to adequately
6 supervise their deputy sheriffs and correctional officers to verify the effectiveness
7 and enforcement of the PPPs and training in the: (a) lawful use of force with
8 detainees and inmates; and (b) the timely and effectively response to the medical
9 needs of detainees and inmates.

10 19. Defendant Nevada County and the NCSD are obligated to have an adequate
11 and effective "Chain of Command" so that incidents involving the excessive use of
12 force and/or the inadequate provision of medical services occur, NCSD operational
13 management learns about the incident and can take timely corrective action.

14 20. Defendant Nevada County and NCSD personnel are obligated to prepare
15 complete and truthful Incident Reports about: (a) the use of force at the Jail; and (b)
16 the provision of effective medical care for a detainee or inmate that has sustained a
17 serious injury.

18 21. Defendant CMGC, as a contractor to Defendant Nevada County for medical
19 services for all detainees and inmates at the Jail, is a state actor performing this
20 traditionally governmental function. Consequently, CMGC is obligated to either
21 follow the PPPs adopted by Defendants Nevada County and the NCSD for providing
22 medical services and/or to have its own comparable policies, practices, and
23 procedures for medical services that meet the same constitutional standards.

24 22. The obligations and duties set forth in paragraphs 16 to 21 will hereafter be
25 collectively referred to as the "Supervisory Duties".

26 23. The personnel employed by Defendant CMGC to perform its medical services
27

1 at the Jail are state actors performing this traditional governmental function.
2 Consequently, CMGC personnel are obligated to perform their medical service
3 duties in a manner that meets constitutional standards.

4 24. Defendant Nevada County and the NCSO maintain a video surveillance
5 system at the Jail ("VSS"). Plaintiff is informed and believes, and on that basis
6 alleges, that the VSS was installed, in part, to verify that the PPPs are being
7 followed, that training has been adequate, and that supervisors are monitoring the
8 conduct of deputies and correctional officers in the lawful use of force and the
9 provision of timely and effective medical response for all inmates. Plaintiff is
10 further informed and believes, and on that basis alleges, that the VSS also provides
11 a ready means for the NCSO to investigate and prepare Incident Reports about the
12 use of force and the provision of medical care at the Jail.

13 **The Unlawful Use of Force Against Plaintiff**

14 25. On January 11, 2018, Plaintiff was arrested by Defendant Officer John
15 Herrera of the GVPD and transported to the Nevada County Jail.

16 26. The events described in following paragraphs 27-34 are captured in a multi-
17 camera video that was produced to Plaintiff, a true and correct copy of which has
18 been filed with the Court as Exhibit 3 to this Complaint. Hereafter, references to
19 this video will include a time stamp; however, all time references in the Complaint
20 are only approximate. The video in Exhibit 3 concludes at approximately 17:20:47
21 on January 11, 2018. Plaintiff is informed and believes, and on that basis alleges
22 that Defendants Nevada County and the NCSO are in possession of additional video
23 showing Plaintiff for the balance of his time at the Jail.

24 27. Plaintiff was led into the Jail and taken towards the booking area by
25 Defendant Deputy Adam Grizzell. Following Deputy Grizzell and Plaintiff into the
26 Jail was Defendant Officer John Hererra. Plaintiff was at all times handcuffed

1 behind his back and Plaintiff was calmly cooperating, not resisting, these officers.
2 Ex. 3, approximately 17:10 to 17:11:45.

3 28. As Plaintiff was being marched down the pre-booking hallway towards
4 booking area, the two escorting officers stopped him and turned him towards a
5 padded section of the wall in the pre-booking hallway. Plaintiff complied. Then
6 Defendant Grizzell forcefully pushed Plaintiff's head into the wall. Plaintiff's face
7 bounced off the padding and he turned and objected to Defendant Grizzell.
8 Defendant Grizzell then violently pushed Plaintiff on the back of his head and
9 upper back, pressing his face into the wall. Ex. 3, approximately 17:11:45 to
10 17:11:54. At no time did Defendant Herrera attempt to stop Defendant Grizzell
11 from this use of excessive force against Plaintiff.

12 29. Plaintiff was frightened and angered by the actions of Defendant Grizzell in
13 slamming his head into the wall and he instinctively stiffened in resistance. After a
14 few seconds, Plaintiff turned his head towards Defendant Grizzell and told him to
15 stop smashing his face into the wall. Ex. 3, approximately 17:11:55 to 17:12:00.
16 Defendant Grizzell then grabbed Plaintiff's "beenie", pulled it over his head, and
17 then grabbed Plaintiff's handcuffed hands and pulled them up towards Plaintiff's
18 head. Defendant Grizzell then put all of his weight on top of Plaintiff, forcing
19 Plaintiff to the floor. This all happened in just a few seconds. As Plaintiff went
20 down, Plaintiff felt his right leg breaking. See Ex. 3, approximately 17:12:00 to
21 17:12:06. At no time did Defendant Herrera attempt to stop Defendant Grizzell
22 from this use of excessive force against Plaintiff. As soon as Plaintiff hit the
23 ground, Defendant Herrera grabbed Plaintiff by the leg and assisted Deputy
24 Grizzell in further use of unnecessary and excessive force putting Plaintiff into leg
25 and wrist chains. See Ex. 3, approximately 17:12:07 to 17:12:15.

26 30. Within approximately 8 seconds of being taken to the ground by Defendant
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1 Grizzell, two additional deputies/correctional officers arrived in the pre-booking
2 hallway. Plaintiff is informed and believes, and on that basis alleges, that these
3 deputies/correctional officers were employed by Defendant NCSD. Hereafter, these
4 deputies/correctional officers will be referred to as Does 1-2. See Ex. 3,
5 approximately 17:12:07 to 17:12:15.

6 31. Within approximately 30 seconds after Does 1-2 arrive, another two
7 deputies/correctional officers arrived in the pre-booking hallway. Plaintiff is
8 informed and believes, and on that basis alleges, that these deputies/correctional
9 officers were employed by Defendant NCSD. Hereafter, these deputies/correctional
10 officers will hereafter be referred to as Does 3-4. See Ex. 3, approximately 17:12:06
11 to 17:12:45.

12 32. Within another approximately 30 seconds, another two deputies/correctional
13 officers arrived in the pre-booking hallway. Plaintiff is informed and believes, and
14 on that basis alleges, that these deputies/correctional officers were employed by
15 Defendant NCSD. Hereafter, these deputies will hereafter be referred to as Does 5
16 through 6. See Ex. 3, approximately 17:12:36 to 17:13:15.

17 **The Failure to Provide Medical Care**

18 33. Defendants Grizzell, Herrarra, and Does 1-6 ignored the Plaintiff's cries of
19 pain and help for his leg and failed to summon emergency medical help for Plaintiff.
20 Instead, they removed the handcuffs that kept Plaintiff's hands behind his back at
21 the time of the incident (takedown) and replaced the handcuffs with wrist and angle
22 chains.

23 34. Plaintiff was then picked up off the floor and dragged, in ankle and wrist
24 chains, from the pre-booking hallway to a bench approximately 10-15 feet further
25 down the pre-booking hallway. See Ex. 3, approximately 17:15:10 to 17:15:50.
26 Plaintiff could not stand up by himself and his right leg could not support his
27

1 weight. Defendants Grizzell, Herrera, and Does 1-6 continued to ignore Plaintiff's
2 cries of pain and his inability to support his own weight and failed to summon
3 emergency medical help for Plaintiff.

4 35. After about four minutes (which included several failed attempts to walk),
5 Plaintiff was again moved by Defendants Grizzell, Herrera, and Does 1-6 to some
6 type of holding/sobering type cell where Plaintiff was dumped on his knees with
7 ankle and wrist chains still on. See Ex. 3, approximately 17:19:00 to 17:20:40.

8 36. Plaintiff is informed and believes that the document attached hereto as
9 Exhibit 4, is a true and correct copy of medical records for Plaintiff kept by
10 Defendant CMGC at the Jail. According to Ex 2, page 15 (labeled "Customs Flows
11 in the upper left hand corner and numbered as "Howie 32" in lower right hand
12 corner), Defendant Jessica Limme first saw Plaintiff at approximately 6:52 pm on
13 January 11, 2018, which was approximately one hour and 40 minutes after the
14 breaking of Plaintiff's right leg. Defendant Jessica Limme made a series of
15 notations that Plaintiff was "Awake and alert" and "Appears Well" and had a
16 "Steady" gait. During this medical visit Plaintiff told Defendant Jessica Limme
17 about the injury to his right leg, but she ignored his pain, the swelling in his leg,
18 his inability to stand or walk, and his request for medical assistance. Plaintiff is
19 informed and believes, and on that basis alleges, that these notations by Defendant
20 Jessica Limme were knowingly false and/or incomplete.

21 37. Plaintiff is informed and believes, and on that basis alleges, that Defendant
22 Limme was accompanied at this medical visit by Defendant Does 11-12 who were
23 deputies/correctional officers employed by Defendant NCSD. Plaintiff is further
24 informed and believes, and on that basis alleges, that Defendant Does 11-12 were
25 aware of Plaintiff's injuries and ignored his obvious need for emergency medical
26 care.

27 38. According to Ex 4, page 16 (numbered as "Howie 33"), Defendant Andrea
28

1 Boucher first saw Plaintiff at approximately 9:17 pm on January 11, 2018, which
2 was approximately four hours after the breaking of Plaintiff's right leg. Plaintiff
3 recalls a female nurse coming to the sobering cell at about this time (but does not
4 recall her name), along with a female deputy or officer whom he believes, and on
5 that basis alleges, was Defendant McCormack. Plaintiff is informed and believes,
6 and on that basis further alleges, that these two Defendants assisted Plaintiff out of
7 the cell and sat him on a nearby chair; however, other Defendant Does may have
8 been present. Plaintiff alleges that, despite the obvious serious injury to his right
9 leg, Defendants Boucher and McCormack ignored Plaintiff's need for emergency
10 medical assistance. Defendant Andrea Boucher made a series of notations in
11 Plaintiff's medical record that he was "Lethargic but responds to verbal stimuli" and
12 was "Non-Cooperative". There are no notations about Plaintiff under the headings
13 "General Appearance" or "Gait" as observed by Defendant Jessica Limme.
14 Plaintiff's serious leg injury and his inability to stand or walk would have been
15 obvious to anyone. Plaintiff is informed and believes, and on that basis alleges, that
16 these notations by Defendant Andrea Boucher were knowingly false and/or
17 incomplete.

18 39. According to Ex 4, pages 16-17 (numbered as "Howie 33-34"), Defendant
19 Andrea Boucher saw Plaintiff again at approximately 1:23 am on January 12, 2018,
20 which was approximately eight hours and 15 minutes after the breaking of
21 Plaintiff's right leg. Defendant Andrea Boucher made a series of notations that
22 Plaintiff was "Awake and alert" and "Appears Well", but his gait was "*Unstable".
23 Plaintiff does not know at this time what the asterisk in front of "Unstable" means
24 or references. During this medical visit Plaintiff again told Defendant Andrea
25 Boucher about the injury to his right leg, but she ignored his pain, swelling, and
26 request for medical assistance. Plaintiff is informed and believes, and on that basis
27 alleges, that these notations by Defendant Andrea Boucher were knowingly false

1 and/or incomplete. Defendant Andrea Boucher then cleared Plaintiff to be released
2 from the sobering cell. See Ex 4, page 17 (numbered as "Howie 34").

3 40. Plaintiff recalls a visit to his cell (at about the same as Defendant Andrea
4 Boucher alleged in paragraph 39) time by a male and female deputy/correctional
5 officer who will hereafter be designated as unidentified Defendants Does 13 and 14.
6 Plaintiff is informed and believes, and on that basis alleges, that unidentified
7 Defendants Does 13-14 were deputies or correctional officers employed by NCSO.
8 These two Defendants wanted to move Plaintiff to a cell in the booking area.
9 Plaintiff informed them about his injury and that he could not walk. Defendant
10 Does 13-14 ignored Plaintiff's obvious need for emergency medical care (including
11 the need for a wheel chair) and proceeded to move Plaintiff to another cell by
12 supporting Plaintiff on each side and making Plaintiff hop on one leg. This change
13 in cells further exasperated Plaintiff's injuries, pain, and suffering.

14 41. Sometime the following morning (estimated somewhere between 9 to 10 am),
15 Plaintiff was helped out of his cell and put into a wheelchair by an unidentified
16 Defendant nurse Doe 26 and an unidentified Defendant deputy or officer Doe 11.
17 Plaintiff was then taken to the booking area. Plaintiff recalls asking Defendant
18 McCormack if he could have a ride to the hospital to obtain treatment for his leg.
19 Defendant McCormack, along with an unidentified Defendant nurse (possibly Doe
20 26 or a different nurse, Doe 27), said something to the effect of "don't see why not".
21 Plaintiff understood this to mean "yes" to his request and he then sat in the
22 wheelchair and waited to be transported to the local emergency room.

23 42. According to Ex 4, pages 10 - 14 (numbered as "Howie 27 - 31"), Defendant
24 Jordan Dean examined Plaintiff at approximately 10:07 am on January 12, 2018.
25 Defendant Jordan Dean made a series of notations about Plaintiff's medical
26 condition. At the time of this medical exam, Plaintiff was unable to stand on his
27 feet, his right leg was very swollen, and he was experiencing serious pain. Plaintiff

1 again asked for transport to Sierra Nevada Memorial Hospital for emergency
2 treatment, but this request was ignored by Defendant Dean. On Exhibit 4, page 11
3 (numbered "Howie 28"), Defendant Dean recorded "rt knee pain" under a notation
4 that reads "NOTE: INCLUDE CURRENT SYMPTOMS; ANY E.D. VISIT, ACUTE
5 INFECTION, OR TRAUMA IN PAST WEEK". However, under the category for
6 "Recent Trauma with LOC within past 24-48 hours?" no mention was made of
7 Plaintiff's right leg. On Ex 4, page 13 (numbered "Howie 30"), Defendant Dean
8 recorded "rt knee" under the category "Swelling" and "Yes" under the category
9 "Pain?". However, on Exhibit 4 page 14 (numbered "Howie 31"), Defendant Dean
10 recorded "0/10" under the category "Pain scale /10". Finally, Defendant Dean
11 recorded on Exhibit 4 page 14 (numbered "Howie 31") "REFUSE PATIENT AND
12 REFER TO ED FOR EVALUATION (pt is getting released and going to hospital).
13 Defendant Dean completed her medical review, but did not summon medical
14 assistance or transport for Plaintiff to the local emergency room.

15 43. Sometime after the medical review and release by Defendant Dean, Plaintiff
16 again asked Defendants McCormack and an unidentified Defendant officer Doe 15
17 for a ride to the local hospital. Plaintiff is informed and believes, and on that basis
18 alleges that Defendant McCormack checked with her superior officers at the Jail
19 about taking Plaintiff to the local hospital emergency room. However, Defendant
20 McCormack's statement indicating to Plaintiff that she would arrange a ride to the
21 hospital (as first alleged in paragraph 41) was apparently countermanded by
22 Defendant McCormack's NCSO supervisors, hereafter named as Defendant Does
23 16-18. Plaintiff is informed and believes, and on that basis alleges, that Defendants
24 McCormack and Doe 15 took no further action to get this order countermanded or to
25 get Plaintiff transported to an emergency room.

26 44. Plaintiff waited in his wheelchair for a long time, but at about 1:00 pm on
27 January 12, 2018, Defendants McCormack and Defendant Does 19-20 rolled

1 Plaintiff out the back door of the Jail in the wheelchair. Defendants McCormack
2 and Defendant Does 19-20 then took Plaintiff out of the wheelchair and sat him on
3 a street curb in back of the Jail. Defendants McCormack and Does 19-20 gave
4 Plaintiff no further assistance and returned into the Jail.

5 45. Plaintiff used his cell phone to call a taxi to take him to the hospital. When
6 the taxi came (a "Fast" Taxi driven by a Mr. Sean Kennedy), Plaintiff was unable to
7 get into the vehicle, even with the driver's assistance. The taxi driver, Mr.
8 Kennedy, saw how badly Plaintiff was hurt and called an ambulance for Plaintiff.

9 46. The ambulance and fire department arrived shortly thereafter and Plaintiff
10 was transported to Sierra Nevada Memorial Hospital where he received emergency
11 treatment and stabilization for his right leg. X-rays revealed the break in his right
12 leg, below the knee, with substantial displacement of the bone. Plaintiff was
13 referred to an orthopedic surgeon for further surgical treatment. Subsequently,
14 Plaintiff received surgical repair of his broken leg and Plaintiff has been receiving
15 appropriate follow-up care.

16 **The Cover Up**

17 47. The Incident Report, a true and correct copy of which is attached hereto as
18 Exhibit 2, about the use of force on Plaintiff was reviewed and approved by
19 Defendant McCormack and/or Defendants Royal and/or Does 21-25. The Incident
20 report gives a false and/or misleading statement of the events purported to be
21 described therein, in particular, about the use of force against Plaintiff. For
22 example, the Incident Report states that there was no injury to Plaintiff at any time
23 up to the time he was placed in a sobering cell.

24 48. Plaintiff is informed and believes, and on that basis alleges, that at all
25 relevant times Defendants Royal, McCormack and Does 21-25 had full access to the
26 Incident Report and to the VSS. In addition, as alleged in paragraphs 38, 41, 43
27

1 to 44, Defendant McCormack personally observed Plaintiff's injured right leg.
2 Plaintiff is further informed and believes, and on that basis alleges, that despite the
3 obvious fact that the VSS shows the excessive use of force by Defendant Grizzell,
4 and further, that Defendant McCormack personally witnessed Plaintiff's inability to
5 walk, Defendants Royal, McCormack and Does 21-25 failed to correct the Incident
6 Report to accurately reflect the relevant events, failed to conduct an independent
7 investigation of the incident, and failed to otherwise adequately and properly
8 perform their Supervisory Duties.

9 **The Timely Filing of a Tort Claim**

10 49. On or about May 30, 2018, Plaintiff filed a claim against Nevada County for
11 the injuries he suffered as described in paragraphs 26-48. A true and correct copy
12 of this tort claim is attached hereto as Exhibit 1A.

13 50. On or about June 22, 2018, Nevada County served by mail a letter of
14 rejection of Plaintiff's claim dated June 20, 2018. A true and correct copy of this
15 rejection is attached hereto as Exhibit 1B.

V

FIRST CAUSE OF ACTION

Defendants Adam Grizzell, John Herrera and Does 1-10

**Individual Liability for Violation of Plaintiff's
Constitutional Rights Under 42 U.S.C. §1983
(Unlawful Use of Force)**

51. Plaintiff hereby incorporates by reference paragraphs 1 through 50, inclusive, as though set forth fully herein.

52. Defendants Grizzell, Herrera, and Does 1-10 committed acts of unprovoked and unwarranted excessive force against Plaintiff Howie alleged in paragraphs 27-32 in violation of his right under the Fourth, Eighth and Fourteenth Amendments to the U.S. Constitution.

53. The foregoing conduct of Defendants Grizzell, Herrera, and Does 1-10 were acts and omissions under the color of state law that was the direct and proximate cause of the violation of the constitutional rights of Plaintiff Howie.

54. As a direct and proximate result of the wrongful conduct of Defendants Grizzell, Herrera, and Does 1-10 as set forth above, Plaintiff Howie has sustained general damages of an estimated \$1,500,000, according to proof, including, but not limited to: (a) the serious physical pain and suffering from the injuries to his body; (b) the severe emotional and mental distress caused by the rough handling, demeaning taunts, physical beating, and having his leg broken while handcuffed, including feelings of helplessness, anxiety, humiliation, and the loss of a sense of security, dignity, and pride; (c) the cost of medical treatment; and (d) the cost of emotional and psychological therapy.

55. As a direct and proximate result of the foregoing conduct of Defendants Grizzell, Herrera, and Does 1-10, Plaintiff Howie has been forced to file this action under 42 U.S.C. §1983, and is entitled to recover his attorneys fees and costs under

1 42 U.S.C. §1988.

2 56. The foregoing acts and omissions of Defendant Grizzell, Herrera, and Does 1
3 to 10 were committed with unbridled malice that was despicable and done with
4 intentional disregard for Plaintiff Howie's physical and mental person. As a result,
5 punitive damages should be awarded against Defendants Grizzell, Herrera, and
6 Does 1 to 10.

7 **SECOND CAUSE OF ACTION**

8 **Defendants Adam Grizzell, John Herrera and Does 1-10**

9 **Individual Liability for Violation of Plaintiff's**
10 **Constitutional Rights Under 42 U.S.C . §1983**
(Deliberate and Callous Disregard for Plaintiff's Emergency Medical Problem)

11 57. Plaintiff hereby incorporates by reference paragraphs 1 through 50, inclusive,
12 as though set forth fully herein.

13 58. Defendants Grizzell, Herrera, and Does 1-10 were aware of Plaintiff's
14 medical problem and his need for emergency medical care as alleged in paragraphs
15 33-35. However, these defendants deliberately and callously disregarded Plaintiff's
16 emergency medical needs in violation of the Fourth, Eighth and Fourteenth
17 Amendments to the U.S. Constitution.

18 59. The foregoing conduct of Defendants Grizzell, Herrera, and Does 1-10 were
19 acts and omissions under the color of state law that was the direct and proximate
20 cause of the violation of the constitutional rights of Plaintiff Howie.

21 60. As a direct and proximate result of the wrongful conduct of Defendants
22 Grizzell, Herrera, and Does 1-10 as set forth above, Plaintiff Howie has sustained
23 general damages of an estimated \$1,500,000, according to proof, including, but not
24 limited to: (a) the serious physical pain and suffering from the injuries to his body;
25 (b) the severe emotional and mental distress caused by the rough handling,
26 demeaning taunts, physical beating, and having his leg broken while handcuffed,
27

1 including feelings of helplessness, anxiety, humiliation, and the loss of a sense of
2 security, dignity, and pride; (c) the cost of medical treatment; and (d) the cost of
3 emotional and psychological therapy.

4 61. As a direct and proximate result of the foregoing conduct of Defendants
5 Grizzell, Herrera, and Does 1-10, Plaintiff Howie has been forced to file this action
6 under 42 U.S.C. §1983, and is entitled to recover his attorneys fees and costs under
7 42 U.S.C. §1988.

8 62. The foregoing acts and omissions of Defendant Grizzell, Herrera, and Does 1-
9 10 were committed with unbridled malice that was despicable and done with
10 intentional disregard for Plaintiff Howie's physical and mental person. As a result,
11 punitive damages should be awarded against Defendants Grizzell, Herrera, and
12 Does 1-10.

13 **THIRD CAUSE OF ACTION**

14 **Defendants Jennifer McCormack and Does 11 through 15**

15 **Individual Liability for Violation of Plaintiff's**
16 **Constitutional Rights Under 42 U.S.C . §1983**
(Deliberate and Callous Disregard for Plaintiff's Emergency Medical Problem)

17 63. Plaintiff hereby incorporates by reference paragraphs 1 through 50, inclusive,
18 as though set forth fully herein.

19 64. As alleged in paragraphs 36-44, Defendants McCormack and Does 11-20
20 deliberately and callously disregarded Plaintiff's obvious serious injuries and
21 emergency medical needs in violation of the Fourth, Eighth and Fourteenth
22 Amendments to the U.S. Constitution. Instead, Defendant McCormack and Does
23 11-20 left Plaintiff in a holding cell for approximately eight hours and then in a
24 regular cell for approximately another eight hours. The next morning, Defendants
25 McCormack and Does 11-20 refused to transport Plaintiff to the emergency room,
26 and instead, put Plaintiff into a wheelchair for several hours and then rolled him
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1 out the back door of the Jail and left him on a curbside to fend for himself.

2 65. The foregoing conduct of Defendants McCormack and Does 11-20 were acts
3 and omissions under the color of state law that was the direct and proximate cause
4 of the violation of the constitutional rights of Plaintiff Howie.

5 66. As a direct and proximate result of the wrongful conduct of Defendants
6 McCormack and Does 11-20 as set forth above, Plaintiff Howie has sustained
7 general damages of an estimated \$1,500,000, according to proof, including, but not
8 limited to: (a) the serious physical pain and suffering from the injuries to his body;
9 (b) the severe emotional and mental distress caused by the rough handling,
10 demeaning taunts, physical beating, and having his leg broken while handcuffed,
11 including feelings of helplessness, anxiety, humiliation, and the loss of a sense of
12 security, dignity, and pride; (c) the cost of medical treatment; and (d) the cost of
13 emotional and psychological therapy.

14 67. As a direct and proximate result of the foregoing conduct of Defendants
15 McCormack and Does 11-20, Plaintiff Howie has been forced to file this action
16 under 42 U.S.C. §1983, and is entitled to recover his attorneys fees and costs under
17 42 U.S.C. §1988.

18 68. The foregoing acts and omissions of Defendants McCormack and Does 11-15
19 were committed with unbridled malice that was despicable and done with
20 intentional disregard for Plaintiff Howie's physical and mental person. As a result,
21 punitive damages should be awarded against Defendants McCormack and Does 11
22 through 20.

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1 **FOURTH CAUSE OF ACTION**

2 **Defendants Sheriff Keith Royal, Jennifer McCormack, and Does 16-20**
3 **Failure to Perform Supervisory Duties Under 42 U.S.C. §1983**
4 **(Supervisory Liability In Their Individual Capacities)**

5 69. Plaintiff hereby incorporates by reference paragraphs 1 through 50,
6 inclusive, as though set forth fully herein.

7 70. Defendants Royal, Jennifer McCormack, and Does 21-25 are Nevada County
8 and/or NCSO employees or contractors that at all relevant times alleged herein, had
9 responsibility for performing the Supervisory Duties as alleged in paragraphs 17-
10 23, including the supervision of Defendant Grizzell and Does 1-20.

11 71. At all relevant times, Defendants Royal, McCormack, and Does 16-20 had all
12 necessary means and opportunity for performing the Supervisory Duties.

13 72. Defendants Royal, McCormack, and Does 21-25 failed, in whole or in part, to
14 perform their Supervisory Duties. As a direct consequence of such failure, Plaintiff
15 was: (a) subjected to unprovoked and unwarranted excessive force against; and (b)
16 denied timely medical services for the injuries he suffered as a result of the
17 excessive use of force, both of which are violations of his right under the Fourth,
18 Eighth and Fourteenth Amendments to the U.S. Constitution.

19 73. The foregoing conduct of Defendants Royal, McCormack, and Does 21-25
20 were acts and omissions under the color of state law that was the direct and
21 proximate cause of the violation of the constitutional rights of Plaintiff Howie.

22 74. As a direct and proximate result of the wrongful conduct of Defendants
23 Royal, McCormack, and Does 16-20 as set forth above, Plaintiff Howie has
24 sustained general damages of an estimated \$1,500,000, according to proof,
25 including, but not limited to: (a) the serious physical pain and suffering from the
26 injuries to his body; (b) the severe emotional and mental distress caused by the
27 rough handling, demeaning taunts, physical beating, and having his leg broken

1 while handcuffed, including feelings of helplessness, anxiety, humiliation, and the
2 loss of a sense of security, dignity, and pride; (c) the cost of medical treatment; and
3 (d) the cost of emotional and psychological therapy.

4 75. As a direct and proximate result of the foregoing conduct of Defendants
5 Royal, McCormack, and Does 21-25, Plaintiff Howie has been forced to file this
6 action under 42 U.S.C. §1983, and is entitled to recover his attorneys fees and costs
7 under 42 U.S.C. §1988.

8 76. The foregoing acts and omissions of Defendants Royal, McCormack, and Does
9 21-25 were committed with unbridled malice that was despicable and done with
10 intentional disregard for Plaintiff Howie's physical and mental person. As a result,
11 punitive damages should be awarded against Defendants Royal, McCormack, and
12 Does 21-25.

13 **FIFTH CAUSE OF ACTION**

14 **Defendant Sheriff Keith Royal**
15 **Supervisory Liability In His Official Capacity Under 42 U.S.C. §1983**
(Failure to Lawfully Administer the Jail)

16 77. Plaintiff hereby incorporates by reference paragraphs 1 through 50,
17 inclusive, as though set forth fully herein.

18 78. Defendant Royal, as Sheriff, was responsible for the adoption and
19 enforcement of the PPPs at the Jail as set forth in paragraphs 16-22. Defendant
20 Keith Royal, as Sheriff, was further responsible for the creation of a chain of
21 command that enforces such PPPs and that promptly and accurately records and
22 then reports accurate information about the use of force and the provision of timely
23 medical care up the chain of command.

24 79. Plaintiff is informed and believes, and on that basis alleges, that Defendant
25 Royal, as Sheriff, failed to adopt and/or failed to enforce PPPs as set forth in
26 paragraphs 16-22. Plaintiff is further informed and believes, and on that basis
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1 alleges, that Defendant Royal, as Sheriff, failed to properly train and monitor
2 NCSO personnel in the application of the PPPs that did exist for use of force by
3 NCSO and the provision of timely medical care to detainees and inmates as set
4 forth in paragraphs 16-22.

5 80. Defendant Royal, as Sheriff, failed, in whole or in part, to establish an
6 appropriate chain of command for the enforcement of the PPPs and/or to otherwise
7 perform his Supervisory Duties as set forth in paragraphs 16-22. As a direct
8 consequence of such failure, Plaintiff was: (a) subjected to unlawful excessive force;
9 and (b) denied timely medical services for the injuries he suffered as a result of the
10 excessive use of force.

11 81. The foregoing conduct of Defendant Royal, as Sheriff, constituted acts and
12 omissions under the color of state law that was the direct and proximate cause of
13 the violation of the constitutional rights of Plaintiff Howie.

14 82. As a direct and proximate result of the wrongful conduct of Defendant Royal
15 as set forth above, Plaintiff Howie has sustained general damages of an estimated
16 \$1,500,000, according to proof, including, but not limited to: (a) the serious physical
17 pain and suffering from the injuries to his body; (b) the severe emotional and
18 mental distress caused by the rough handling, demeaning taunts, physical beating,
19 and having his leg broken while handcuffed, including feelings of helplessness,
20 anxiety, humiliation, and the loss of a sense of security, dignity, and pride; (c) the
21 cost of medical treatment; and (d) the cost of emotional and psychological therapy.

22 83. As a direct and proximate result of the foregoing conduct of Defendant Royal,
23 as Sheriff, Plaintiff Howie has been forced to file this action under 42 U.S.C. §1983,
24 and is entitled to recover his attorneys fees and costs under 42 U.S.C. §1988.

25 84. The foregoing acts and omissions of Defendant Royal, as Sheriff, were
26 committed with unbridled malice that was despicable and done with intentional
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1 disregard for Plaintiff Howie's physical and mental person. As a result, punitive
2 damages should be awarded against Defendant Royal.

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4 **SIXTH CAUSE OF ACTION**

5 **Defendant Nevada County**
6 **Municipal Liability for Violation of Plaintiff's Constitutional Rights**
7 **(Deliberate and Callous Disregard for Inmate Medical Problems)**

8 85. Plaintiff hereby incorporates by reference paragraphs 1 through 50, inclusive,
9 as though set forth fully herein.

10 86. Defendant Nevada County has failed to adequately establish policies and
11 procedures regarding the timely and effective provision of medical services for
12 inmates that are adequate for protecting the right of inmates to medical care.

13 87. Defendant Nevada County has failed to adequately train its personnel
14 regarding the timely and effective provision of medical care for inmates.

15 88. Defendant Nevada County has failed to adequately monitor or enforce
16 policies and procedures for the timely and effective provision of medical care for
17 inmates.

18 89. Defendant Nevada County has failed to adequately supervise its personnel
19 regarding the timely and effective provision of medical care for inmates.

20 90. Plaintiff is aware of other instances of deliberate and callous indifference by
21 Defendant Nevada County to the medical needs of other inmates, including the tort
22 claim filed by Sonya Cheyenne Cavendar on or about November 13, 2018, a true
23 and correct copy of which is attached hereto as Exhibit 5. The deliberate and
24 callous indifference experienced by Plaintiff and Ms. Cavender demonstrate a
25 persistent pattern of wrongful conduct by Defendant Nevada County.

26 91. It was known and/or obvious to Defendant Nevada County that the acts and
27 omissions described in paragraphs 86-90 would be likely to cause serious violation
28 of the constitutional rights of inmates to timely and effective medical care.

1 92. The acts and omissions in paragraphs 865-90 were done under the color of
2 state law and they were the direct and proximate cause of the violation of the
3 constitutional rights of Plaintiff. These acts and omissions continued for at least a
4 year prior to the institution of this action and Plaintiff is informed and believes, and
5 on that basis alleges, that these acts and omissions continue until the present time.
6 As a consequence, Defendant Nevada County's acts and omissions in paragraphs
7 86-90 constitute deliberate indifference to, and a callous disregard for, the
8 constitutional rights of inmates in the Nevada County Jail.

9 93. As a direct and proximate result of the wrongful acts and omissions of
10 Defendant Nevada County as set forth above, Plaintiff has sustained general
11 damages of an estimated \$1,500,000, according to proof, including, but not limited
12 to: (a) the serious physical pain and suffering from the daily repeated injury to his
13 body; (b) the severe emotional and mental distress caused by the daily infliction of
14 physical and psychological pain, including feelings of helplessness, anxiety,
15 humiliation, and the loss of a sense of security, dignity, and pride; (c) the cost of
16 medical treatment; (d) the cost of emotional and psychological therapy; and (e) the
17 loss of future economic damages to permanent physical disability.

18 94. As a direct and proximate result of the foregoing conduct of Defendant
19 Nevada County, Plaintiff has been forced to file this action under 42 U.S.C. §1983,
20 and is entitled to recover his attorneys fees and costs under 42 U.S.C. §1988.

1 SEVENTH CAUSE OF ACTION

2 Defendants Andrea Boucher, Jessica Limme, Jordan Dean,
3 Laurie Adams, and Does 21 through 25

4 Individual Liability for Violation of Plaintiff's Constitutional Rights
(Deliberate and Callous Disregard for Plaintiff's Known Medical Problem)
5 Under 42 U.S.C . §1983

6 95. Plaintiff hereby incorporates by reference paragraphs 1 through 50, inclusive,
7 as though set forth fully herein.

8 96. Defendants Boucher, Limme, Dean, Adams, and Does 26 through 30 became
9 aware of Plaintiff's medical problem and his need for timely medical care as alleged
10 in paragraphs 36-44. However, Defendants Boucher, Limme, Dean, Adams, and
11 Does 26 through 30 deliberately and callously disregarded Plaintiff's medical needs,
12 thereby denying Plaintiff his constitutional right to timely and effective medical
13 care under the Fourth, Eighth and Fourteenth Amendments to the U.S.

14 Constitution.

15 97. The foregoing conduct of Defendants Boucher, Limme, Dean, Adams, and
16 Does 26 through 30 were acts and omissions under the color of state law that were
17 the direct and proximate cause of the violation of the constitutional rights of
18 Plaintiff Howie.

19 98. As a direct and proximate result of the wrongful conduct of Defendants
20 Boucher, Limme, Dean, Adams, and Does 26 through 30 as set forth above, Plaintiff
21 Howie has sustained general damages of an estimated \$1,500,000, according to
22 proof, including, but not limited to: (a) the serious physical pain and suffering from
23 the injuries to his body; (b) the severe emotional and mental distress caused by the
24 rough handling, demeaning taunts, and being beaten and having his leg broken
25 while handcuffed, including feelings of helplessness, anxiety, humiliation, and the
26 loss of a sense of security, dignity, and pride; (c) the cost of medical treatment; and

1 (d) the cost of emotional and psychological therapy.

2 99. As a direct and proximate result of the foregoing conduct of Defendants
3 Boucher, Limme, Dean, Adams, and Does 26 through 30, Plaintiff has been forced
4 to file this action under 42 U.S.C. §1983, and is entitled to recover his attorneys fees
5 and costs under 42 U.S.C. §1988.

6 100. The foregoing acts and omissions of Defendants Boucher, Limme, Dean,
7 Adams, and Does 26 through 30 were committed with unbridled malice that was
8 despicable and done with intentional disregard for Plaintiff Howie's physical and
9 mental person. As a result, punitive damages should be awarded against
10 Defendants Boucher, Limme, Dean, Adams, and Does 26 through 30.

11 **EIGHTH CAUSE OF ACTION**

12 **Defendant Correctional Medical Group Companies, Inc.**

13 **Municipal Liability for Violation of Plaintiff's Constitutional Rights**
14 **(Deliberate and Callous Disregard for Inmate Medical Problems)**

15 101. Plaintiff hereby incorporates by reference paragraphs 1 through 50, inclusive,
16 as though set forth fully herein.

17 102. Defendant CMGC has failed to either follow the PPPs adopted by Defendants
18 Nevada County and NCSO and/or failed to establish and follow its own comparable
19 policies, practices and procedures for the timely and effective provision of medical
20 services for detainees and inmates at the Jail.

21 103. Defendant CMGC has failed to adequately train its personnel in the PPPs
22 and/or the applicable PPPs or its own policies, practices, and procedures regarding
23 the timely and effective provision of medical care for inmates.

24 104. Defendant CMGC has failed to adequately monitor or enforce the applicable
25 PPPs and/or its own policies, practices, and procedures for the timely and effective
26 provision of medical care for inmates at the Jail.

27 105. Defendant CMGC has failed to adequately supervise its personnel regarding
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1 the timely and effective provision of medical care for inmates at the Jail.

2 106. Plaintiff is aware of other instances of deliberate and callous indifference by
3 Defendant CMGC to the medical needs of inmates, including the tort claim filed by
4 Sonya Cheyenne Cavendar on or about November 13, 2018, a true and correct copy
5 of which as attached hereto as Exhibit 5. The deliberate and callous indifference
6 experienced by Plaintiff and Ms. Cavender demonstrate a persistent pattern of
7 wrongful conduct by Defendant CMGC.

8 107. It was known and/or obvious to Defendant CMGC that the acts and omissions
9 described in paragraphs 101 to 106 would be likely to cause serious violation of the
10 constitutional rights of inmates to timely and effective medical care.

11 108. The acts and omissions in paragraphs 101-106 were done under the color of
12 state law and they were the direct and proximate cause of the violation of the
13 constitutional rights of Plaintiff. Plaintiff is informed and believes, and on that
14 basis alleges, that such acts and omissions existed for a substantial period prior to
15 the institution of this action and that these acts and omissions continue until the
16 present time. As a consequence, Defendant CMGC's acts and omissions in
17 paragraphs 101-106 constitute deliberate indifference to, and a callous disregard
18 for, the constitutional rights of inmates in the Nevada County Jail.

19 109. As a direct and proximate result of the wrongful acts and omissions of
20 Defendant CMGC as set forth above, Plaintiff has sustained general damages of an
21 estimated \$1,500,000, according to proof, including, but not limited to: (a) the
22 serious physical pain and suffering from the daily repeated injury to his body; (b)
23 the severe emotional and mental distress caused by the daily infliction of physical
24 and psychological pain, including feelings of helplessness, anxiety, humiliation, and
25 the loss of a sense of security, dignity, and pride; (c) the cost of medical treatment;
26 (d) the cost of emotional and psychological therapy; and (e) the loss of future

1 economic damages to permanent physical disability.

2 110. As a direct and proximate result of the foregoing conduct of CMCG, Plaintiff
3 has been forced to file this action under 42 U.S.C. §1983, and is entitled to recover
4 his attorneys fees and costs under 42 U.S.C. §1988.

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6 **NINTH CAUSE OF ACTION**

7 **Defendants Nevada County, NCSD, CMGC, and Does 31-40**

8 **Conspiracy to Violate Plaintiff's Constitutional Rights Under 42 U.S.C . §1983**

9 111. Plaintiff hereby incorporates by reference paragraphs 1 through 50, inclusive,
10 as though set forth fully herein.

11 112. Plaintiff is informed and believes, and thereon alleges, that Defendants
12 Nevada County, NCSD, CMGC, and Does 31-40 agreed and knowingly and willfully
13 conspired among themselves to perpetrate the unlawful conduct described in the
14 Fourth through Sixth and Eighth causes of action.

15 113. As a direct and proximate result of the wrongful acts and omissions of
16 Defendants Nevada County, NCSD, CMGC and Does 31-40 as set forth above,
17 Plaintiff has sustained general damages of an estimated \$1,500,000, according to
18 proof, including, but not limited to: (a) the serious physical pain and suffering from
19 the daily repeated injury to his body; (b) the severe emotional and mental distress
20 caused by the daily infliction of physical and psychological pain, including feelings
21 of helplessness, anxiety, humiliation, and the loss of a sense of security, dignity,
22 and pride; (c) the cost of medical treatment; (d) the cost of emotional and
23 psychological therapy; and (e) the loss of future economic damages to permanent
24 physical disability.

25 114. As a direct and proximate result of the foregoing conduct of Defendants
26 Nevada County, NCSD, CMGC and Does 31-40, Plaintiff has been forced to file this
27 action under 42 U.S.C. §1983, and is entitled to recover his attorneys fees and costs

1 under 42 U.S.C. §1988.

2 **VI.**
3 **STATE LAW CLAIMS**

4 **TENTH CAUSE OF ACTION**

5 **Defendants Grizzell, Herrera, McCormack, and Does 1-10**

6 **Intentional Infliction of Emotional Distress**

7 115. Plaintiff hereby incorporates by reference paragraphs 1 through 50,
8 inclusive, as though set forth fully herein.

9 116. The acts and omissions of Defendants Grizzell, Hererra, McCormack, and
10 Does 1 through 10 described in paragraphs 27-34 was extreme and outrageous
11 conduct directed at Plaintiff that was calculated to cause Plaintiff severe emotional
12 distress or was done with substantial certainty that Plaintiff would suffer severe
13 emotional injury.

14 117. As the direct result of the foregoing acts and omissions of Defendants
15 Grizzell, Hererra, McCormack, and Does 1 through 10, Plaintiff suffered significant
16 emotional and psychological damage.

17 118. As a direct and proximate result of the foregoing acts and omissions of
18 Defendants Grizzell, Hererra, McCormack, and Does 1 through 10, Plaintiff has
19 sustained general damages of an estimated \$1,000,000, according to proof,
20 including, but not limited to: (a) severe emotional and mental distress, including
21 feelings of helplessness, anxiety, humiliation, and the loss of a sense of security,
22 dignity, and pride; and (b) the cost of emotional and psychological therapy.

23 119. The foregoing acts and omissions of Defendants Grizzell, Hererra,
24 McCormack, and Does 1 through 10 were committed with unbridled malice that
25 was despicable and done with intentional disregard for the emotional and
26 psychological pain, suffering, and trauma it would cause Plaintiff. As a result,
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1 punitive damages should be awarded against Defendants Grizzell, Hererra,
2 McCormack, and Does 1 through 10.

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4 **ELEVENTH CAUSE OF ACTION**

5 **Defendants Andrea Boucher, Jessica Limme, Jordan Dean,**
6 **Laurie Adams, and Does 26 through 30**

7 **Intentional Infliction of Emotional Distress**

8 120. Plaintiff hereby incorporates by reference paragraphs 1 through 50,
9 inclusive, as though set forth fully herein.

10 121. The acts and omissions of Defendants Boucher, Limme, Dean, Adams, and
11 Does 26 through 30 described in paragraphs 36-44 was extreme and outrageous
12 conduct directed at Plaintiff that was calculated to cause Plaintiff severe emotional
13 distress or was done with substantial certainty that Plaintiff would suffer severe
14 emotional injury.

15 122. As the direct result of the foregoing acts and omissions of Defendants
16 Boucher, Limme, Dean, Adams, and Does 26 through 30, Plaintiff suffered
17 significant emotional and psychological damage.

18 123. As a direct and proximate result of the foregoing acts and omissions of
19 Defendants Boucher, Limme, Dean, Adams, and Does 26 through 30, Plaintiff has
20 sustained general damages of an estimated \$1,000,000, according to proof,
21 including, but not limited to: (a) severe emotional and mental distress, including
22 feelings of helplessness, anxiety, humiliation, and the loss of a sense of security,
23 dignity, and pride; (b) the cost of emotional and psychological therapy.

24 124. The foregoing acts and omissions of Defendants Boucher, Limme, Dean,
25 Adams, and Does 26 through 30 were committed with unbridled malice that was
26 despicable and done with intentional disregard for the emotional and psychological
27 pain, suffering, and trauma it would cause Plaintiff. As a result, punitive damages

1 should be awarded against Defendants Boucher, Limme, Dean, Adams, and Does 26
2 through 30.

3 **TWELFTH CAUSE OF ACTION**

4 **Defendants Grizzell, Herrera, McCormack, and Does 1 through 20**

5 **Negligence**

6 125. Plaintiff hereby incorporates by reference paragraphs 1 through 50,
7 inclusive, as though set forth fully herein.

8 126. Defendants Grizzell, Herrera, McCormack, and Does 1 through 20 were
9 correctional officers responsible for the booking, processing, housing, and control of
10 detainees and inmates at the Jail. As a consequence, these Defendants had a duty
11 to exercise their authority and dominion over, and use of force against, Plaintiff in a
12 reasonable manner.

13 127. Defendants Grizzell, Herrera, McCormack, and Does 1 through 20 breached
14 the foregoing duty by the acts and omissions described in paragraphs 27-44.

15 128. As the direct result of the foregoing breach by Defendants Grizzell, Herrera,
16 McCormack, and Does 1 through 20 of their duty to Plaintiff, Plaintiff suffered
17 serious physical and mental injury.

18 129. As a direct and proximate result of the foregoing acts and omission of
19 Defendants Grizzell, Herrera, McCormack, and Does 1 through 20, Plaintiff has
20 sustained general damages of an estimated \$1,000,000, according to proof,
21 including, but not limited to: (a) the serious physical pain and suffering from the
22 injuries to his body; (b) the severe emotional and mental distress, including feelings
23 of helplessness, anxiety, humiliation, and the loss of a sense of security, dignity,
24 and pride; (c) the cost of medical treatment; and (d) the cost of emotional and
25 psychological therapy.

26 130. The foregoing acts and omissions of Defendants Grizzell, Herrera,
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1 McCormack, and Does 1 through 20 were committed with a reckless and callous
2 disregard for the emotional and psychological pain, suffering, and trauma it would
3 cause Plaintiff that was despicable. As a result, punitive damages should be
4 awarded against Defendants Grizzell, Herrera, McCormack, and Does 1 through 20.

5 **THIRTEENTH CAUSE OF ACTION**

6 **Defendants Grizzell, Herrera, McCormack, and Does 1 through 20**

7 **Interference With Plaintiff's Constitutional Rights**
8 **Under California Civil Code §52.1(b)**

9 131. Plaintiff hereby incorporates by reference paragraphs 1 through 50,
10 inclusive, as though set forth fully herein.

11 132. Defendants Grizzell, Herrera, McCormack, and Does 1 through 20 committed
12 acts and omissions that constituted threats, intimidation, and coercion directed at
13 Plaintiff in violation of : (a) Plaintiffs right to seek redress of his grievances under
14 the US and California Constitutions; (b) Plaintiff's substantive due process right to
15 be free of punishment prior to adjudication of the charges for which Plaintiff was to
16 appear under the US Constitution; (c) Plaintiff's rights under Article 1, Section 7 &
17 17 of the California Constitution; and (d) Plaintiff's right to timely and effective
18 medical care.

19 133. As a direct and proximate result of the foregoing acts and omission of
20 Defendants Grizzell, Herrera, McCormack, and Does 1 through 20, Plaintiff has
21 sustained general damages of an estimated \$1,500,000, according to proof,
22 including, but not limited to: (a) the serious physical pain and suffering; (b) the
23 severe emotional and mental distress, including feelings of helplessness, anxiety,
24 humiliation, and the loss of a sense of security, dignity, and pride; (c) the cost of
25 medical treatment; and (d) the cost of emotional and psychological therapy.

26 134. Pursuant to California Civil Code §52(a) and §52.1(b), Plaintiff is entitled to
27 treble the amount of consequential damages that are proven.

1 135. As the direct and proximate result of the foregoing conduct of Defendants
2 Grizzell, McCormack, and Does 1 through 20, Plaintiff is entitled to recover his
3 costs and attorneys fees under Civil Code § 52(b) and § 52.1(h).

4 **FOURTEENTH CAUSE OF ACTION**

5 **Defendants Grizzell, Herrera, McCormack, and Does 1 through 15**

6 **(Failure to Provide Medical Care Under GC §845.6)**

7 136. Plaintiff hereby incorporates by reference paragraphs 1 through 50,
8 inclusive, as though set forth fully herein.

9 137. Defendants Grizzell, Herrera, McCormack, and Does 1 through 20 were
10 public employees that had responsibility to provide medical care to inmates under
11 Government Code §845.6.

12 138. Defendants Grizzell, Herrera, McCormack, and Does 1 through 20 failed to
13 take reasonable action to provide Plaintiff with medical care. As the direct result of
14 this failure, Plaintiff suffered serious physical and mental injury.

15 139. As a direct and proximate result of the foregoing acts and omissions of
16 Defendants Grizzell, Herrera, McCormack, and Does 1 through 20, Plaintiff has
17 sustained general damages of an estimated \$1,500,000, according to proof,
18 including, but not limited to: (a) the serious physical pain and suffering from the
19 injuries to his body; (b) the severe emotional and mental distress, including feelings
20 of helplessness, anxiety, humiliation, and the loss of a sense of security, dignity,
21 and pride; (c) the cost of medical treatment; and (d) the cost of emotional and
22 psychological therapy.

23 **FIFTEENTH CAUSE OF ACTION**

24 **Defendants Royal, McCormack, and Does 21-25**
25 **Negligent Supervision Liability**

26 140. Plaintiff hereby incorporates by reference paragraphs 1 through 50,
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1 inclusive, as though set forth fully herein.

2 141. Defendants Royal, McCormack, and Does 21-25 were supervisors for the Jail
3 and they were responsible, directly or indirectly, in whole or in part, for the
4 supervision of Defendants Grizzell and Does 1 through 20. As a consequence,
5 Defendants Royal, McCormack, and Does 21-25 had a duty to supervise Defendants
6 Grizzell and Does 1 through 20 in a reasonable manner, including in a manner that
7 would have prevented the use of excessive force against a detainee or inmate at the
8 Jail.

9 142. Defendants Royal, McCormack, and Does 21-25 breached the foregoing duty
10 by failing to supervise Defendants Grizzell and Does 1 through 20 in a reasonable
11 manner.

12 143. As a direct and proximate result of the foregoing acts and omissions of
13 Defendants Royal, McCormack, and Does 21-25 as set forth above, Plaintiff has
14 sustained general damages of an estimated \$1,500,000, according to proof,
15 including, but not limited to: (a) the serious physical pain and suffering from the
16 daily repeated injury to his body; (b) the severe emotional and mental distress
17 caused by the daily infliction of physical and psychological pain, including feelings
18 of helplessness, anxiety, humiliation, and the loss of a sense of security, dignity,
19 and pride; (c) the cost of medical treatment; (d) the cost of emotional and
20 psychological therapy; and (e) the loss of future economic damages to permanent
21 physical disability.

22 144. The foregoing acts and omissions of Defendants Royal, McCormack, and
23 Does 21-25 were committed with a wanton and callous disregard that was
24 despicable and done with full knowledge of the physical and mental pain and
25 suffering to Plaintiff. Accordingly, punitive damages should be awarded against
26 Defendants Royal, McCormack, and Does 21-25.

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SIXTEENTH CAUSE OF ACTION

Defendant Nevada County

Respondeat Superior Liability Under California
Government Code §815.2(a) And/Or 815.6

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145. Plaintiff hereby incorporates by reference paragraphs 1 through 50, inclusive, as though set forth fully herein.

146. Defendant Nevada County, which operates the NCSO and is the employer of Defendants Royal, Grizzell, McCormack, and Does 1-20, has full authority to train, supervise, and direct the actions of each of these defendants. Defendants Grizzell, McCormack, and Does 1 through 20 in their official capacities and in the performance of their duties engaged in the acts and omissions alleged in paragraphs 27-44.

147. Under California Government Code §815.2(a), Nevada County is liable for any injury that is proximately caused by the act or omission of its personnel within the scope of their duties, including all of the acts and omissions alleged in the First through Fifth Causes of Action.

148. As a direct and proximate result of the wrongful acts and omissions of omissions of Defendants Grizzell, McCormack, and Does 1 through 20 for which Defendant Nevada County is liable under the doctrine of *respondeat superior* and/or California Government Code §815.6, Plaintiff has sustained general damages of an estimated \$1,500,000, according to proof, including, but not limited to: (a) the serious physical pain and suffering; (b) the severe emotional and mental distress, including feelings of helplessness, anxiety, humiliation, and the loss of a sense of security, dignity, and pride; (c) the cost of medical treatment; and (d) the cost of emotional and psychological therapy.

1 SEVENTENTH CAUSE OF ACTION

2 Defendant CMGC, Andrea Boucher, Jessica Limme, Jordan Dean,
3 Laurie Adams, and Does 26-30

4 Medical Malpractice

5 149. Plaintiff hereby incorporates by reference paragraphs 1 through 50, inclusive,
6 as though set forth fully herein.

7 150. Defendants CMGC, Boucher, Limme, Dean, Adams, and Does 26-30 were
8 responsible for providing medical care for inmates at the Jail that met professional
9 medical practices and standards.

10 151. Defendants CMGC, Boucher, Limme, Dean, Adams, and Does 26-30 failed to
11 comply with professional medical practices and standards in the treatment of
12 Plaintiff's injuries by, *inter alia*, failing to: (a) diagnose Plaintiff's injuries to his
13 right leg; (b) send Plaintiff for emergency care of his right leg or otherwise provide
14 emergency medical treatment for Plaintiff's injuries; (c) provide Plaintiff with the
15 means to not bear weight on his right leg while he was in custody at the Jail.

16 152. As a direct and proximate cause of this negligence and failure to meet
17 applicable professional standards of care, Plaintiff suffered additional injury to his
18 right leg and additional pain and suffering.

19 153. The foregoing acts and omissions of Defendants CMGC, Boucher, Limme,
20 Dean, Adams, and Does 26 through 30 were committed with callous and wanton
21 disregard that was despicable and done with full knowledge of the physical and
22 mental pain and suffering to Plaintiff. As a result, punitive damages should be
23 awarded against Defendants CMGC, Boucher, Limme, Dean, Adams, and Does 26
24 through 30.

VII.

PRAYER

Wherefore, Plaintiff prays for judgment against Defendants as follows:

1. For general, consequential, and special damages in the sum set forth in each count according to proof;
2. For punitive damages in a sum according to proof in Counts 1-5, 7-8, 10-12, 15, and 17;
3. For reasonable attorney's fees and costs pursuant to 42 U.S.C. §1988 in Counts 1-9;
4. For reasonable attorney's fees and costs pursuant to California Civil Code §51 and §52 in Count 13;
5. For treble damages (3x consequential) in Count 13;
6. For cost of suit herein incurred for all counts; and
7. For such other and further relief as the Court deems just and proper.

Dated: November 30, 2018

Respectfully,

By: /s/ Patrick H. Dwyer
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