

1 Patrick H. Dwyer, SBN 137743
2 P.O. Box 1705, Penn Valley, CA 95946
3 Tel: (530) 432-5407; Fax: (530) 432-9122
4 Email: pdwyer@pdwyerlaw.com
5 Attorney for Plaintiff John David Peterson

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

8 John David Peterson, an individual,

9 Plaintiff

10 v.

11 Nevada County, California, a county
12 government and operator of the
13 Nevada County Sheriff's Department;
14 and the following persons both as
15 individuals and in their capacity as
16 officials, employees or contractors
17 of Nevada County:

18 Sheriff Keith Royal; and

19 Does 1 through 10; and

20 Correctional Medical Group

21 Companies, Inc.; and its personnel

22 Does 11 through 20; and

23 The City of Grass Valley, a

24 municipality and the operator of the

25 Grass Valley Police Department; and

26 the following person, both as an

27 individual and in their capacity as

28 an employee thereof,

Officer Doe 21, and

Does 22 through 25,

Defendants.

CASE NO.: 2:19-CV-0949-JAM-EFB

**FIRST AMENDED 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
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**I.
INTRODUCTION**

This is a civil rights action arising out of the deliberate indifference to the serious medical condition of Plaintiff John David Peterson by Nevada County Sheriff's Department ("NCSD") and Correctional Medical Group Companies, Inc. ("CMGC") and their respective personnel. Plaintiff, who suffered injury to his leg while being arrested by the City of Grass Valley Police Department ("GVPD"), was subsequently housed at the Nevada County jail. While at the jail he developed a life threatening bone infection as a result of the injury to his leg. He was examined by CMGC medical personnel, but instead of being sent for emergency medical care at the local hospital, Sierra Nevada Memorial Hospital ("SNMH"), Defendants NCSD and CMGC simply dumped Plaintiff out the door of the jail and left him to fend for himself. Plaintiff, who could barely walk, made it to the nearest gas station where he collapsed. Plaintiff was transported by ambulance to SNMH where he underwent emergency surgeries and treatment for a bone infection for about 45 days. Fortunately, Plaintiff survived and has recovered.

**II.
JURISDICTION AND VENUE**

1. Jurisdiction over the federal causes of action under Title 42 U.S.C. §1983 are proper in this Court under 28 U.S.C. §1331. Pendant Jurisdiction over the state causes of action is proper under Title 28 U.S.C. §1367(a) and Title 28 U.S.C. §1343(a)(3).
2. Venue is proper in this Court under 28 U.S.C. §1391(b) because all of the defendants reside, and the acts complained of occurred, within the territorial boundaries of this United States District Court.
3. Intra-district venue is proper in the Sacramento Division of this Court under Local Rule 120(d) because the acts and omissions that are the basis of this

1 complaint occurred within Nevada County.

2
3 **III.**
PARTIES

4 4. Plaintiff John David Peterson (“Peterson”) was a single male, age 38 at the
5 time of the events alleged in this Complaint. As of the date of filing of this
6 Complaint, Plaintiff Peterson resides at 275 Dorsey Drive, Apt. 51, Grass Valley,
7 CA 95945.

8 5. Defendant Nevada County, California, established and operates the Nevada
9 County Sheriff’s Department (“NCSO”) which is responsible for the staffing and
10 operation of the Jail at 925 Maidu Ave, Nevada City, CA 95959 (“Jail”, aka Wayne
11 Brown Correctional Facility). Plaintiff is informed and believes, and on that basis
12 alleges, that the NCSO contracts with Correctional Medical Group Companies, Inc.
13 to provide medical care to the inmates at the Jail. The NCSO employs and/or
14 contracts with Does 1-10 as deputies and/or correctional officers.

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

17 7. Defendant City of Grass Valley, California, established and operates the
18 Grass Valley Police Department (“GVPD”) which employs or contracts with
19 individuals to serve as police officers. The GVPD employs and/or contracts with
20 Doe 21 as a police officer.

21 8. Defendant Correctional Medical Group Companies, Inc. is a Delaware
22 corporation qualified to do business in California (Corporation No. C3521984) with
23 its principal executive office located at 3911 Sorrento Valley Boulevard, Suite 130,
24 San Diego, CA 92121, and its principal business office at 2511 Garden Road, Suite
25 A160, Monterey, CA 93940. Plaintiff is informed and believes, and on that basis
26 alleges, that Correctional Medical Group Companies, Inc. either owns and/or

1 controls a business in California named California Forensic Medical Group, Inc. or
2 CFMG, Inc. (Corporation No. C1054341 FTB suspended), such that these two
3 corporate entities are the alter ego of each other (collectively “CMGC”). Plaintiff is
4 further informed and believes, and on that basis alleges, that Defendant Nevada
5 County has had a contract with CMGC (or its alter ego CFMG) to provide medical
6 services for detainees and inmates at the Jail at all relevant times to this
7 Complaint. CMGC employs and/or contracts with Does 11-20.

8 9. The true names and capacities of defendants sued herein as Does 1-25,
9 inclusive, whether individual, corporate, or otherwise are unknown to Plaintiff who,
10 therefore sues such defendants by such fictitious names. When their true names
11 and capacities are ascertained, Plaintiff will amend this complaint by asserting
12 their true names and capacities herein. Plaintiff is informed, believes and thereon
13 alleges, that at all times herein mentioned, all defendants, including Does 1-25,
14 inclusive: (i) are qualified to do business in California, and/or did, in fact, do
15 business in California; (ii) jointly perpetrated the acts herein with their
16 co-defendants; (iii) were the successors in interest to, or agents, alter egos,
17 principals, co-tenants, partners, joint venturers, or co-conspirators of their
18 co-defendants in doing the things herein alleged; and/or (iv) were acting within the
19 scope of their authority or in furtherance of a common scheme or design with the
20 knowledge, permission, consent or ratification of their co-defendants in doing the
21 things herein alleged, and therefore are liable, jointly and severally, for all damages
22 and other relief or remedies sought by complainants in this action.

23 **IV.**
24 **BACKGROUND ALLEGATIONS**

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

26 10. Defendants Nevada County and the NCSD are obligated to have policies,
27 practices, and procedures to provide timely and effective response to the medical

1 needs of inmates (“PPPs”).

2 11. Defendants Nevada County and the NCSO are obligated to adequately train
3 their deputy sheriffs and other correctional officers in the timely and effective
4 response to the medical needs of inmates.

5 12. Defendants Nevada County and the NCSO 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 timely and effective response to
8 the medical needs of detainees and inmates.

9 13. Defendants Nevada County and the NCSO are obligated to have an adequate
10 and effective “Chain of Command” so that when incidents involving the inadequate
11 provision of medical services occur, NCSO operational management learns about
12 the incident and can take timely corrective action.

13 14. Defendants Nevada County and NCSO personnel are obligated to prepare
14 complete and truthful Incident Reports about the provision of effective medical care
15 for a detainee or inmate that has sustained a serious injury.

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

22 16. The obligations and duties set forth in paragraphs 11-15 will hereafter be
23 collectively referred to as the “Supervisory Duties”.

24 17. The personnel employed by Defendant CMGC to perform its medical services
25 at the Jail are state actors performing this traditional governmental function.
26 Consequently, CMGC personnel are obligated to perform their medical service

1 duties in a manner that meets constitutional standards.

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

11 **The Unlawful Use of Force**

12 19. On or about September 5, 2018, Plaintiff was placed under arrest by GVPD
13 officers Butler, Ball, and a third unnamed officer at approximately 1 to 2 pm
14 (possibly as late as 3 pm). After Plaintiff was handcuffed by these three GVPD
15 officers, Plaintiff was taken to the emergency room at Sierra Nevada Memorial
16 Hospital ("SNMH") for a medical assessment. After being in the SNMH emergency
17 room area for approximately 20 minutes, a fourth GVPD officer arrived. Plaintiff
18 does not recall his name, so this officer will be referred to as Defendant Doe 21.

19 20. Shortly after arriving in the ER area of SNMH, Plaintiff was trying to show
20 officers Butler, Ball, and the unnamed third officer that his right lower leg/ankle
21 had been surgically repaired a few years prior and now had a steel plate and screws
22 to hold it together. While handcuffed, Plaintiff used his left foot to step on the sock
23 on his right foot to pull his sock off and show the three Grass Valley Police officers
24 his scar. When a fourth Grass Valley Police Officer, Defendant Doe 21 arrived, he
25 looked at Plaintiff's ankle and said that he would like to see Plaintiff get his sock
26 back on. Plaintiff reached down and attempted, with cuffed hands, to pull his sock
27

1 back on. Defendant Doe 21 then approached Plaintiff and grabbed his arm, pulling
2 him out of the chair he had been sitting in. Defendant Doe 21 then pulled Plaintiff
3 into the air and caused him to fall head first onto the floor. Defendant Doe 21 then
4 had Plaintiff upside down with his head and right shoulder on the floor and his feet
5 in the air. Defendant Doe 21 then began pushing down on Plaintiff's right foot (the
6 one with the steel plate) trying to shove Plaintiff's leg back through the handcuffs.
7 Plaintiff did not bad mouth any of the officers and Plaintiff never resisted, but
8 Plaintiff did yell in pain about his right ankle.

9 21. While Defendant Doe 21 was trying to push Plaintiff's leg back through the
10 cuffs, Plaintiff asked him to stop, sit Plaintiff in the chair and take off the cuffs,
11 adjust Plaintiff's leg, and then put the cuffs back on Plaintiff. Defendant Doe 21
12 said "no" and that he was going to do it his way. Plaintiff told him about his steel
13 plate and screws and that what he was trying to do was stressing Plaintiff's leg and
14 ankle. Plaintiff told Defendant Doe 21 that his approach was not going to work and
15 that he should stop torturing Plaintiff. Defendant Doe 21 then put Plaintiff into the
16 chair and told Plaintiff to get his leg back through the hand cuffs. Plaintiff tried,
17 but could not and Plaintiff asked him again to just un-cuff and then re-cuff him, but
18 Defendant Doe 21 refused. Instead, Defendant Doe 21 pulled Plaintiff up out of the
19 chair and began trying to force Plaintiff's right leg through his handcuffed hands.
20 Plaintiff recalls him trying to force his leg through the handcuffs several times, but
21 Defendant Doe 21 failed.

22 22. Finally, GVPD officer Butler stopped Defendant Doe 21 and said something
23 close to: "how about we just do this: un-cuff him and re-cuff him". Officer Butler
24 then did this and it took only a few seconds to resolve the problem. After this,
25 Officers Butler, Ball, and the unnamed GVPD officer told Defendant Doe 21
26 something to the effect of: "go home and take the rest of the day off".

The Failure to Provide Medical Care

1
2 23. After approximately another 45 minutes (during which time Plaintiff had his
3 blood drawn at the hospital to test for drugs before he was taken to the jail),
4 Plaintiff was taken by officers Butler and Ball to the Nevada County jail known as
5 Wayne Brown Correctional Facility ("WBCF").

6 24. As part of the initial booking, Plaintiff was also seen by a female nurse,
7 named as Defendant Doe 11, while still in the processing area. Plaintiff told her
8 about the plate and screws in his leg and what had happened with the handcuffs
9 and how Defendant Doe 21 tried to force Plaintiff's leg back through the handcuffs.
10 The nurse examined the leg and said it was okay. Plaintiff was still able to walk at
11 this time and the leg had not yet started to swell, although there was pain.

12 25. After processing was complete, Plaintiff recalls being placed in a cell by
13 himself in the "B" pod on the left side from the podium. Plaintiff does not recall
14 having a cell mate that night. On the morning of September 6, 2018, Plaintiff
15 started feeling feverish, but he thought it was maybe a cold or flu coming on.
16 Plaintiff stayed in his cell (alone) that day and overnight. By the morning of
17 September 7, 2018, around 10 am, Plaintiff was feeling much worse and he told the
18 officers at WBCF that his right knee had been painful since the middle of the night.
19 Sometime around 10:30 to 11:00 am, Plaintiff was taken to the infirmary at WBCF.
20 A nurse, who is named as Defendant Doe 12, took Plaintiff's vitals and arranged for
21 an x-ray to be taken of his leg. When the x-ray technician was done, the x-ray
22 technician told Plaintiff that the screws had been pulled out of the steel plate on his
23 tibia. After the x-ray was taken, the nurse Doe 12 did not tell Plaintiff about the
24 nature or extent of the injury and did not arrange for Plaintiff to be taken to the
25 local emergency room at SNMH for treatment. Further, Nurse Defendant Doe 12
26 did not give Plaintiff any advice about taking care of the leg or seeking treatment,

1 but simply had Plaintiff return to his cell.

2 26. At around 12:30 pm, Plaintiff was sent back to his cell to sleep. After about
3 an hour (to the best of Plaintiff's recollection), Plaintiff was told to roll up his things
4 because he was being released. When Plaintiff got to the booking area for his
5 release, he asked a male NCSO officer at the desk, named as Defendant Doe 1, if he
6 could use the phone to get a ride from the jail. Defendant Doe 1 said something to
7 the effect of: "hurry it up". Plaintiff made two phone calls, but he could not get
8 through to anyone. Plaintiff did not have money for a taxi. Plaintiff was processed
9 out by Defendant Doe 1 and released out the back door of the jail (the entrance
10 nearest Highway 49).

11 27. Although Plaintiff was in great pain and felt very feverish as he was let out of
12 the Jail, Plaintiff walked to the gas station on Sacramento Street, just off the
13 Highway 49 freeway. That was as far as Plaintiff could go – Plaintiff was too sick
14 and in too much pain. Plaintiff borrowed a phone and called an ambulance. A few
15 minutes later, a fire truck arrived and the firemen took Plaintiff's vitals. Then an
16 ambulance arrived and the EMT crew put Plaintiff on a gurney and into the
17 ambulance. Plaintiff recalls being told that he had a temperature of over 103.
18 Plaintiff was taken to the emergency room at SNMH where he was diagnosed with
19 a life threatening infection (sepsis) and acute osteomyelitis (bone infection).

20 28. Plaintiff was in SNMH for approximately the next 45 days. On about
21 September 12, 2018, the infection became so bad that they had to surgically remove
22 the plate and screws from Plaintiff's leg. Plaintiff's tibia was left exposed and the
23 surrounding tissue was necrotic. The hospital was not able to do a graft because
24 there was not enough tissue for attachment. There were other surgical procedures
25 during Plaintiff's stay in the hospital. On or about December 11, 2018, the wound
26 had barely closed and it still had a drain, but Plaintiff was released from SNMH.

The Cover Up

1
2 29. Plaintiff is informed and believes, and on that basis alleges, that at all
3 relevant times NCS D Defendants Does 6-10 had full access to the information about
4 the foregoing medical incident, including full access to the VSS. In addition,
5 Plaintiff is further informed and believes, and on that basis alleges, that despite the
6 obvious fact that the VSS shows the serious nature of Plaintiff's medical condition
7 for an extended period of hours, Defendants Does 6-10 failed to correctly prepare an
8 accurate incident report about Plaintiff's medical emergency, failed to conduct an
9 independent investigation of the response to Plaintiff's medical emergency, and
10 failed to otherwise adequately and properly perform their Supervisory Duties.

The Timely Filing of a Tort Claim

11
12 30. On or about January 25, 2019, Plaintiff filed a claim against Nevada County
13 for the injuries he suffered as described in paragraphs 20-28. A true and correct
14 copy of this tort claim is attached hereto as Exhibit 1A.

15 31. On or about March 4, 2019, Nevada County served by mail a letter dated
16 February 28, 2019 rejecting Plaintiff's claim. A true and correct copy of this
17 rejection is attached hereto as Exhibit 1B.

18 32. On or about January 30, 2019, Plaintiff filed a claim against The City of
19 Grass Valley for the injuries he suffered as described in paragraphs 20-28. A true
20 and correct copy of this tort claim is attached hereto as Exhibit 2A.

21 33. On or about February 4, 2019, the City of Grass Valley served by mail a
22 letter of rejection of Plaintiff's claim dated February 1, 2019. A true and correct
23 copy of this rejection is attached hereto as Exhibit 2B.

FIRST CAUSE OF ACTION

Defendant Doe 21

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

34. Plaintiff hereby incorporates by reference paragraphs 1-33, inclusive, as though set forth fully herein.

35. Defendant GVPD officer Doe 21 committed acts of unprovoked and unwarranted excessive force against Plaintiff as alleged in paragraphs 19-22 in violation of his rights under the Fourth, Eighth and Fourteenth Amendments to the U.S. Constitution.

36. The foregoing conduct of Defendant Doe 21 constituted acts and omissions under the color of state law that were the direct and proximate cause of the violation of the constitutional rights of Plaintiff Peterson.

37. As a direct and proximate result of the wrongful conduct of Defendant Doe 21, Plaintiff Peterson sustained general damages in excess of \$1,000,000, according to proof, including, but not limited to the: (a) physical pain and suffering from the injuries to his body; (b) severe emotional and mental distress caused by the use of unnecessary and excessive force while handcuffed and from the physical injuries to his body, including feelings of helplessness, anxiety, humiliation, and the loss of a sense of security, dignity, and pride; (c) cost of medical treatment; (d) loss of economic opportunity; and (e) cost of emotional and psychological care and therapy.

38. As a direct and proximate result of the foregoing conduct of Defendant Doe 21, Plaintiff Peterson has been forced to file this action under 42 U.S.C. §1983, and is entitled to recover his attorney's fees and costs under 42 U.S.C. §1988.

39. The foregoing acts and omissions of Defendant Doe 21 were committed with unbridled malice that was despicable and done with intentional disregard for

1 Plaintiff Peterson's physical and mental person. As a result, punitive damages
2 should be awarded against Defendant Doe 21

3
4 **SECOND CAUSE OF ACTION**

5 **Defendants Does 11-15**

6 **Individual Liability for Violation of Plaintiff's**
7 **Constitutional Rights Under 42 U.S.C. §1983**
(Deliberate and Callous Disregard for Inmate Medical Problems)

8 40. Plaintiff hereby incorporates by reference paragraphs 1-33, inclusive, as
9 though set forth fully herein.

10 41. Defendants CMGC nursing personnel Does 11-15 became aware of Plaintiff's
11 need for emergency medical care as alleged in paragraphs 24-28. However, these
12 defendants deliberately and callously disregarded Plaintiff's emergency medical
13 needs in violation of the Fourth, Eighth and Fourteenth Amendments to the U.S.
14 Constitution.

15 42. The foregoing conduct of Defendants Does 11-15 were acts and omissions
16 under the color of state law that was the direct and proximate cause of the violation
17 of the constitutional rights of Plaintiff Peterson.

18 43. As a direct and proximate result of the wrongful conduct of Defendants Does
19 11-15, Plaintiff Peterson sustained general damages in excess of \$1,000,000,
20 according to proof, including, but not limited to the: (a) physical pain and suffering
21 from the injuries to his body; (b) severe emotional and mental distress caused by the
22 use of unnecessary and excessive force while handcuffed and from the physical
23 injuries to his body, including feelings of helplessness, anxiety, humiliation, and the
24 loss of a sense of security, dignity, and pride; (c) cost of medical treatment; (d) loss
25 of economic opportunity; and (e) cost of emotional and psychological care and
26 therapy.

1 44. As a direct and proximate result of the foregoing conduct of Defendants Does
2 11-15, Plaintiff Peterson has been forced to file this action under 42 U.S.C. §1983,
3 and is entitled to recover his attorney's fees and costs under 42 U.S.C. §1988.

4 45. The foregoing acts and omissions of Defendants Does 11-15 were committed
5 with unbridled malice that was despicable and done with intentional disregard for
6 Plaintiff Peterson's physical and mental person. As a result, punitive damages
7 should be awarded against Defendants Does 11-15.

8 **THIRD CAUSE OF ACTION**

9 **Defendants Sheriff Keith Royal and Does 6-10**
10 **Failure to Perform Supervisory Duties Under 42 U.S.C. §1983**
(Supervisory Liability In Their Individual Capacities)

11 46. Plaintiff hereby incorporates by reference paragraphs 1-33, inclusive, as
12 though set forth fully herein.

13 47. Defendants Royal and Does 6-10 are Nevada County and/or NCSO employees
14 or contractors that, at all relevant times alleged herein, had responsibility for
15 performing the Supervisory Duties as alleged in paragraph 16, including the
16 supervision of Defendants NCSO officers Does 1-5.

17 48. At all relevant times, Defendants Royal and Does 6-10 had all necessary
18 means and opportunity for performing the Supervisory Duties.

19 49. Defendant Keith Royal was Nevada County Sheriff from 1998 through 2018.
20 Plaintiff is informed and believes, and on that basis alleges, that during his tenure,
21 the NCSO had an unconstitutional policy and practice of denying and/or delaying
22 significant medical care for inmates that constituted a deliberate and callous
23 indifference to their medical needs. The purposes of the policy were to save money
24 and punish inmates (beyond deprivation of their physical liberty) by making them
25 endure the pain and debilitation of medical problems. The policy was not expressly
26 stated, but was effectuated and continued by Defendants Royal and Does 6-10

1 through acquiescence and/or indifference to the acts and omissions of WBCF
2 personnel, including Defendants NCSO officers Does 1-5.

3 50. Plaintiff is informed and believes, and on that basis alleges, that Defendants
4 Royal and Does 6-10 further violated the constitutional right of inmates to medical
5 care by the following acts or omissions:

6 (1) failing to require WBCF correctional personnel to immediately contact
7 supervisory personnel about significant medical incidents;

8 (2) failing to require WBCF correctional personnel to prepare written reports
9 about serious medical incidents for review by supervisory personnel;

10 (3) failing to have and/or enforce a policy that inmates must be provided with
11 timely and appropriate medical care;

12 (4) failing to have and/or enforce a policy that WBCF correctional personnel
13 may not override the medical decisions of the on-site medical provider
14 regarding appropriate medical care and treatment of inmates in accordance
15 with applicable professional medical standards, including whether an inmate
16 should be transferred to an outside medical provider;

17 (5) tolerating or acquiescing to an attitude among WBCF correctional
18 personnel that inmates are not entitled to medical care at “public expense”.

19 51. Plaintiff is informed and believes, and on that basis alleges, that Defendants
20 Royal and Does 6-10 had personal knowledge of many instances where inmates
21 were knowingly denied adequate medical care, but failed to take immediate action
22 to obtain the appropriate medical care and/or failed to take any corrective
23 disciplinary or corrective supervisory measures over WBCF correctional personnel
24 and/or to initiate any operational changes at WBCF to prevent further
25 constitutional deprivations of inmate rights to medical care. These many instances
26 included the following specific cases:

1 (1) As set forth in more detail in the complaint filed in *Howie v. Nevada*
2 *County, et al*, 2:18-CV-3146, on or about January 11, 2018, Christopher
3 Howie had his leg broken at the WBCF, then was shackled and placed in a
4 cell all night, then medical staff ignored Mr. Howie's serious medical
5 condition and falsified the jail medical records about his condition, then
6 WBCF personnel refused Mr. Howie's repeated request to be taken to an
7 emergency medical room for treatment, and then WBCF personnel physically
8 wheeled Mr. Howie out of the back door of WBCF and left him on the curb
9 outside the jail unable to fend for himself;

10 (2) As set forth in more detail in the complaint filed in *Cavender v. Nevada*
11 *County, et al*, 2:19-CV-1050, on or about June 20, 2018, Sonya Cheyenne
12 Cavender was an inmate at WBCF who promptly reported serious medical
13 (stroke) symptoms to WBCF correctional staff, but was treated with
14 indifference for 2-3 hours in her cell until she could no longer walk or support
15 herself, at which time the WBCF correctional staff wheeled Ms. Cavender to
16 a holding cell and placed her on a floor pad for another 2-3 hours until Ms.
17 Cavender was near death, and only then did the WBCF correctional
18 personnel call for an ambulance; and

19 (3) In 2017 and 2018, Mr. Stephen Woodward was an inmate at WBCF who
20 was denied medical care for a urological problem for over a year until he
21 contacted a lawyer who sent a letter to Nevada County Counsel demanding
22 that Mr. Woodward be sent to a urologist for his medical condition.

23 52. Plaintiff is informed and believes, and on that basis alleges, that Defendants
24 Royal and Does 6-10, despite the foregoing specific instances of constitutional
25 deprivation of medical care for inmates (as well as other instances not pleaded
26 here), never took any corrective supervisory action, never changed or instituted the
27

1 relevant PPPs (see paragraphs 10-14), and never stopped the practice by WBCF
2 correctional personnel of denying and/or delaying medical care for inmates.

3 53. As a consequence of the factual allegations in paragraphs 49-52, Defendants
4 Royal and Does 6-10 failed, in whole or in part, to perform their Supervisory Duties.
5 As a direct consequence of such failure, Plaintiff was denied timely medical services
6 for his serious medical emergency which is a violation of his rights under the
7 Fourth, Eighth and Fourteenth Amendments to the U.S. Constitution.

8 54. The foregoing conduct of Defendants Royal and Does 6-10 were acts and
9 omissions under the color of state law that was the direct and proximate cause of
10 the violation of the constitutional rights of Plaintiff Peterson.

11 55. As a direct and proximate result of the wrongful conduct of Defendants Royal
12 and Does 6-10 as set forth above, Plaintiff Peterson has sustained general damages
13 in excess of \$1,000,000, according to proof, including, but not limited to the: (a)
14 physical pain and suffering from the injuries to his body; (b) severe emotional and
15 mental distress caused by the use of unnecessary and excessive force while
16 handcuffed and from the physical injuries to his body, including feelings of
17 helplessness, anxiety, humiliation, and the loss of a sense of security, dignity, and
18 pride; (c) cost of medical treatment; (d) loss of economic opportunity; and (e) cost of
19 emotional and psychological care and therapy.

20 56. As a direct and proximate result of the foregoing conduct of Defendants Royal
21 and Does 6-10, Plaintiff Peterson has been forced to file this action under 42 U.S.C.
22 §1983, and is entitled to recover his attorney's fees and costs under 42 U.S.C. §1988.

23 57. The foregoing acts and omissions of Defendants Royal and Does 6-10 were
24 committed with unbridled malice that was despicable and done with intentional
25 disregard for Plaintiff Peterson's physical and mental person. As a result, punitive
26 damages should be awarded against Defendants Royal and Does 6-10.

1
2 **FOURTH CAUSE OF ACTION**

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

6 58. Plaintiff hereby incorporates by reference paragraphs 1-33, inclusive, as
7 though set forth fully herein.

8 59. Defendant Royal, as Sheriff of Nevada County, represented Nevada County
9 in an official capacity and was administratively responsible for instituting adequate
10 PPPs and then the training, monitoring, and enforcement thereof as alleged in
11 paragraphs 10-14 to provide for the timely and effective care of inmate medical
12 needs at WBCF.

13 60. Despite his responsibility for these official capacities and duties, Defendant
14 Royal acquiesced in and/or was deliberately indifferent to the medical needs of
15 inmates at WBCF as exemplified by the acts and omissions set forth in paragraphs
16 49-52.

17 61. The foregoing conduct of Defendant Royal, as Sheriff, constituted acts and
18 omissions under the color of state law that was the direct and proximate cause of
19 the violation of the constitutional rights of Plaintiff Peterson.

20 62. As a direct and proximate result of the wrongful conduct of Defendant Royal
21 as set forth above, Plaintiff Peterson has sustained general damages in excess of
22 \$1,000,000, according to proof, including, but not limited to the: (a) physical pain
23 and suffering from the injuries to his body; (b) severe emotional and mental distress
24 caused by the use of unnecessary and excessive force while handcuffed and from the
25 physical injuries to his body, including feelings of helplessness, anxiety,
26 humiliation, and the loss of a sense of security, dignity, and pride; (c) cost of medical
27 treatment; (d) loss of economic opportunity; and (e) cost of emotional and
28

1 psychological care and therapy.

2 63. As a direct and proximate result of the foregoing conduct of Defendant Royal,
3 as Sheriff, Plaintiff Peterson has been forced to file this action under 42 U.S.C.
4 §1983, and is entitled to recover his attorney's fees and costs under 42 U.S.C. §1988.

5 64. The foregoing acts and omissions of Defendant Royal, as Sheriff, were
6 committed with unbridled malice that was despicable and done with intentional
7 disregard for Plaintiff Peterson's physical and mental person. As a result, punitive
8 damages should be awarded against Defendant Royal.

9
10 **FIFTH CAUSE OF ACTION**

11 **Defendant Nevada County**
12 **Municipal Liability for Violation of Plaintiff's Constitutional Rights**
13 **(Deliberate and Callous Disregard for Inmate Medical Problems)**

14 65. Plaintiff hereby incorporates by reference paragraphs 1-33, inclusive, as
15 though set forth fully herein.

16 66. Defendant Nevada County has failed to adequately establish policies and
17 procedures regarding the timely and effective provision of medical services for
18 inmates that are adequate for protecting the right of inmates to medical care as
19 alleged in paragraphs 10-14.

20 67. Defendant Nevada County has failed to adequately train its personnel
21 regarding the timely and effective provision of medical care for inmates as alleged
22 in paragraphs 10-14.

23 68. Defendant Nevada County has failed to adequately monitor or enforce
24 policies and procedures for the timely and effective provision of medical care for
25 inmates as alleged in paragraphs 10-14.

26 69. Defendant Nevada County has failed to adequately supervise its personnel
27 regarding the timely and effective provision of medical care for inmates as alleged
28 in paragraphs 10-14.

1 70. Plaintiff is informed and believes, and on that basis alleges, that Nevada
2 County has had an unconstitutional policy and/or practice of denying and/or
3 delaying medical care at the WBCF that constituted a deliberate and callous
4 indifference to the medical needs of inmates as described in paragraphs 49-52.

5 71. Plaintiff is informed and believes, and on that basis alleges, that there have
6 been other instances of deliberate and callous indifference by Defendant Nevada
7 County to the medical needs of inmates in addition to those set forth in paragraphs
8 49-52. Together, all of these instances of deliberate and callous indifference to
9 medical needs of inmates demonstrate a persistent pattern of wrongful conduct by
10 Defendant Nevada County.

11 72. It was known and/or obvious to Defendant Nevada County that the acts and
12 omissions described in paragraphs 49-52 and 66-69 would be likely to cause serious
13 violation of the constitutional rights of inmates to timely and effective medical care.

14 73. The acts and omissions in paragraphs 49-52 and 66-69 were done under the
15 color of state law and they were the direct and proximate cause of the violation of
16 the constitutional rights of Plaintiff. These acts and omissions continued for at
17 least a year prior to the institution of this action and Plaintiff is informed and
18 believes, and on that basis alleges, that these acts and omissions continue until the
19 present time. As a consequence, Defendant Nevada County's acts and omissions in
20 paragraphs 49-52 and 66-69 constitute deliberate indifference to, and a callous
21 disregard for, the constitutional rights of inmates in the Nevada County Jail.

22 74. As a direct and proximate result of the wrongful acts and omissions of
23 Defendant Nevada County as set forth above, Plaintiff has sustained general
24 damages in excess of \$1,000,000, according to proof, including, but not limited to
25 the: (a) physical pain and suffering from the injuries to his body; (b) severe
26 emotional and mental distress caused by the use of unnecessary and excessive force
27

1 while handcuffed and from the physical injuries to his body, including feelings of
2 helplessness, anxiety, humiliation, and the loss of a sense of security, dignity, and
3 pride; (c) cost of medical treatment; (d) loss of economic opportunity; and (e) cost of
4 emotional and psychological care and therapy.

5 75. As a direct and proximate result of the foregoing conduct of Defendant
6 Nevada County, Plaintiff has been forced to file this action under 42 U.S.C. §1983,
7 and is entitled to recover his attorney's fees and costs under 42 U.S.C. §1988.

8
9 **SIXTH CAUSE OF ACTION**

10 **Defendants CMGC Supervisory Personnel Does 16-20**

11 **Failure to Perform Supervisory Duties Under 42 U.S.C. §1983**
12 **(Supervisory Liability In Their Individual Capacities)**

13 76. Plaintiff hereby incorporates by reference paragraphs 1-33, inclusive, as
14 though set forth fully herein.

15 77. Defendants CMGC personnel Does 16-20 are CMGC employees or contractors
16 that at all relevant times alleged herein, had responsibility for performing the
17 Supervisory Duties as alleged in paragraphs 15-17, including the supervision of
18 Defendants CMGC medical personnel Does 10-15.

19 78. At all relevant times, Defendants Does 16-20 had all necessary means and
20 opportunity for performing the Supervisory Duties.

21 79. Plaintiff is informed and believes, and on that basis alleges, that Defendants
22 Does 16-20 had an unconstitutional policy and practice of denying and/or delaying
23 significant medical care that constituted a deliberate and callous indifference to the
24 medical needs of inmates. The purposes of the policy were to save money and
25 punish inmates (beyond deprivation of their physical liberty) by making them
26 endure the pain and debilitation of medical problems. The policy was not expressly
27

1 stated, but was effectuated and continued by Defendants Does 16-20 through
2 acquiescence and/or indifference to the acts and omissions of CMGC personnel at
3 WBCF, including Defendants Does 16-20.

4 80. Plaintiff is informed and believes, and on that basis alleges, that Defendants
5 Does 16-20 further violated the constitutional right of inmates to medical care by
6 the following acts or omissions:

7 (1) failing to require CMGC jail medical personnel to immediately contact
8 supervisory personnel about significant medical incidents;

9 (2) failing to require CMGC jail medical personnel to prepare written reports
10 about serious medical incidents for review by supervisory personnel;

11 (3) failing to have and/or enforce a policy that inmates must be provided with
12 timely and appropriate medical care;

13 (4) failing to have and/or enforce a policy that the decisions of CMGC jail
14 medical personnel regarding appropriate medical care and treatment of
15 inmates in accordance with applicable professional medical standards,
16 including whether an inmate should be transferred to an outside medical
17 provider may not be overridden by WBCF correctional personnel; and

18 (5) tolerating or acquiescing to an attitude among both WBCF correctional
19 personnel and CMGC jail personnel that inmates are not entitled to medical
20 care at “public expense”.

21 81. Plaintiff is informed and believes, and on that basis alleges, that Defendants
22 Does 16-20 had personal knowledge over the years of many instances where
23 inmates were knowingly denied medical care and Defendants Does 16-20 either
24 took no immediate action to obtain medical care for these inmates and/or failed to
25 take any corrective disciplinary or corrective supervisory measures over CMGC jail
26 personnel or to initiate any operational changes to correct the constitutional
27

1 deprivations. These many instances included the following specific cases:

2 (1) As set forth in more detail in the complaint filed in *Howie v. Nevada*
3 *County, et al*, 2:18-CV-3146, on or about January 11, 2018, Christopher
4 Howie had his leg broken at the WBCF, then was shackled and placed in a
5 cell all night, then medical staff ignored Mr. Howie's serious medical
6 condition and falsified the jail medical records about his condition, then
7 WBCF personnel refused Mr. Howie's repeated request to be taken to an
8 emergency medical room for treatment, and then WBCF personnel physically
9 wheeled Mr. Howie out of the back door of WBCF and left him on the curb
10 outside the jail unable to fend for himself;

11 (2) As set forth in more detail in the complaint filed in *Cavender v. Nevada*
12 *County, et al*, 2:19-CV-1050, on or about June 20, 2018, Sonya Cheyenne
13 Cavender was an inmate at WBCF who promptly reported serious medical
14 (stroke) symptoms to WBCF correctional staff, but was treated with
15 indifference for 2-3 hours in her cell until she could no longer walk or support
16 herself, at which time the WBCF correctional staff wheeled Ms. Cavender to
17 a holding cell and placed her on a floor pad for another 2-3 hours until Ms.
18 Cavender was near death, and only then did the WBCF correctional
19 personnel call for an ambulance; and

20 (3) In 2017 and 2018, Mr. Stephen Woodward was an inmate at WBCF who
21 was denied medical care for a urological problem for over a year until he
22 contacted a lawyer who sent a letter to Nevada County Counsel demanding
23 that Mr. Woodward be sent to a urologist for his medical condition.

24 82. Plaintiff is informed and believes, and on that basis alleges, that Defendants
25 Does 16-20, despite all of the foregoing specific instances of constitutional
26 deprivation of medical care for inmates (as well as other instances not pleaded
27

1 here), never took any corrective supervisory action for CMGC jail personnel.

2 83. As a consequence of the factual allegations in paragraphs 79-82, Defendants
3 Does 16-20 failed, in whole or in part, to perform their Supervisory Duties. As a
4 direct consequence of such failure, Plaintiff was denied timely medical services for
5 his serious medical emergency which is a violation of his rights under the Fourth,
6 Eighth and Fourteenth Amendments to the U.S. Constitution.

7 84. The foregoing conduct of Defendants Does 16-20 were acts and omissions
8 under the color of state law that was the direct and proximate cause of the violation
9 of the constitutional rights of Plaintiff Peterson.

10 85. As a direct and proximate result of the wrongful conduct of Defendants Does
11 16-20 as set forth above, Plaintiff Peterson has sustained general damages in excess
12 of \$1,000,000, according to proof, including, but not limited to the: (a) physical pain
13 and suffering from the injuries to his body; (b) severe emotional and mental distress
14 caused by the use of unnecessary and excessive force while handcuffed and from the
15 physical injuries to his body, including feelings of helplessness, anxiety,
16 humiliation, and the loss of a sense of security, dignity, and pride; (c) cost of medical
17 treatment; (d) loss of economic opportunity; and (e) cost of emotional and
18 psychological care and therapy.

19 86. As a direct and proximate result of the foregoing conduct of Defendants Does
20 16-20, Plaintiff Peterson has been forced to file this action under 42 U.S.C. §1983,
21 and is entitled to recover his attorney's fees and costs under 42 U.S.C. §1988.

22 87. The foregoing acts and omissions of Defendants Does 16-20 were committed
23 with unbridled malice that was despicable and done with intentional disregard for
24 Plaintiff Peterson's physical and mental person. As a result, punitive damages
25 should be awarded against Defendants Does 16-20.

SEVENTH CAUSE OF ACTION

Defendant Correctional Medical Group Companies, Inc.

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

88. Plaintiff hereby incorporates by reference paragraphs 1-33, inclusive, as though set forth fully herein.

89. Defendant CMGC has failed to either follow the PPPs adopted by Defendants Nevada County as alleged in paragraphs 10-14 and NCSA and/or failed to establish and follow its own comparable policies, practices and procedures for the timely and effective provision of medical services for detainees and inmates at the Jail as alleged in paragraphs 15-17.

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

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

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

93. Plaintiff is informed and believes, and on that basis alleges, that CMGC has had an unconstitutional policy and/or practice of denying and/or delaying medical care at the WBCF that constituted a deliberate and callous indifference to the medical needs of inmates as described in paragraphs 79-82.

94. Plaintiff is informed and believes, and on that basis alleges, that there have been other instances of deliberate and callous indifference by Defendant CMGC to the medical needs of inmates in addition to those set forth in paragraphs 79-82. Together, all of these instances of deliberate and callous indifference to medical

1 needs of inmates demonstrate a persistent pattern of wrongful conduct by
2 Defendant CMGC.

3 95. It was known and/or obvious to Defendant CMGC that the acts and omissions
4 described in paragraphs 89-94 would be likely to cause serious violation of the
5 constitutional rights of inmates to timely and effective medical care.

6 96. The acts and omissions in paragraphs 89-94 were done under the color of
7 state law and they were the direct and proximate cause of the violation of the
8 constitutional rights of Plaintiff. Plaintiff is informed and believes, and on that
9 basis alleges, that such acts and omissions existed for a substantial period prior to
10 the institution of this action and that these acts and omissions continue until the
11 present time. As a consequence, Defendant CMGC's acts and omissions in
12 paragraphs 89-94 constitute deliberate indifference to, and a callous disregard for,
13 the constitutional rights of inmates in the Nevada County Jail.

14 97. As a direct and proximate result of the wrongful acts and omissions of
15 Defendant CMGC as set forth above, Plaintiff has sustained general damages in
16 excess of \$1,000,000, according to proof, including, but not limited to the: (a)
17 physical pain and suffering from the injuries to his body; (b) severe emotional and
18 mental distress caused by the use of unnecessary and excessive force while
19 handcuffed and from the physical injuries to his body, including feelings of
20 helplessness, anxiety, humiliation, and the loss of a sense of security, dignity, and
21 pride; (c) cost of medical treatment; (d) loss of economic opportunity; and (e) cost of
22 emotional and psychological care and therapy.

23 98. The foregoing acts and omissions of Defendant CMGC were committed with
24 unbridled malice that was despicable and done with intentional disregard for
25 Plaintiff Peterson's physical and mental person. As a result, punitive damages
26 should be awarded against Defendant CMGC.

1 99. As a direct and proximate result of the foregoing conduct of CMGC, Plaintiff
2 has been forced to file this action under 42 U.S.C. §1983, and is entitled to recover
3 his attorney's fees and costs under 42 U.S.C. §1988.

4
5 **EIGHTH CAUSE OF ACTION**

6 **Defendants Nevada County, NCSD, Does 6-10, CMGC, and Does 16-20**

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

8 100. Plaintiff hereby incorporates by reference paragraphs 1-33, inclusive, as
9 though set forth fully herein.

10 101. Plaintiff is informed and believes, and thereon alleges, that Defendants
11 Nevada County, NCSD, Does 6-10, CMGC, and Does 16-20 agreed and knowingly
12 and willfully conspired among themselves to perpetrate the unlawful conduct
13 described in the Second through Seventh causes of action.

14 102. As a direct and proximate result of the wrongful acts and omissions of
15 Defendants Nevada County, NCSD, Does 6-10, CMGC and Does 16-20 as set forth
16 above, Plaintiff has sustained general damages in excess of \$1,000,000, according to
17 proof, including, but not limited to the: (a) physical pain and suffering from the
18 injuries to his body; (b) severe emotional and mental distress caused by the use of
19 unnecessary and excessive force while handcuffed and from the physical injuries to
20 his body, including feelings of helplessness, anxiety, humiliation, and the loss of a
21 sense of security, dignity, and pride; (c) cost of medical treatment; (d) loss of
22 economic opportunity; and (e) cost of emotional and psychological care and therapy.

23 103. The foregoing acts and omissions of Defendants Nevada County, NCSD, Does
24 6-10, CMGC and Does 16-20 were committed with unbridled malice that was
25 despicable and done with intentional disregard for Plaintiff Peterson's physical and
26 mental person. As a result, punitive damages should be awarded against
27 Defendants Does 6-10, CMGC, and Does 16-20.

1 104. As a direct and proximate result of the foregoing conduct of Defendants
2 Nevada County, NCSD, Does 6-10, CMGC and Does 16-20, Plaintiff has been forced
3 to file this action under 42 U.S.C. §1983, and is entitled to recover his attorney's
4 fees and costs under 42 U.S.C. §1988.

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

STATE LAW CLAIMS
NINTH CAUSE OF ACTION

Defendants Does 1-5

Intentional Infliction of Emotional Distress

105. Plaintiff hereby incorporates by reference paragraphs 1-33, inclusive, as though set forth fully herein.

106. The acts and omissions of Defendants Does 1-5 as alleged in paragraphs 24-28 was extreme and outrageous conduct directed at Plaintiff that was calculated to cause Plaintiff severe emotional distress or was done with substantial certainty that Plaintiff would suffer severe emotional injury.

107. As the direct result of the foregoing acts and omissions of Defendants Does 1 to 5, Plaintiff suffered significant emotional and psychological damage.

108. As a direct and proximate result of the foregoing acts and omissions of Defendants Does 1-5, Plaintiff has sustained general damages in excess of \$1,000,000, according to proof, including, but not limited to: (a) the severe emotional and mental distress caused by the deliberate indifference to his emergency medical condition; (b) feelings of helplessness, anxiety, humiliation, and the loss of a sense of security, dignity, and pride; and (c) the cost of emotional and psychological therapy.

109. The foregoing acts and omissions of Defendants Does 1-5 were committed with unbridled malice that was despicable and done with intentional disregard for the emotional and psychological pain, suffering, and trauma it would cause Plaintiff. As a result, punitive damages should be awarded against Defendants Does 1-5.

TENTH CAUSE OF ACTION

Defendants Doe 11-15

Intentional Infliction of Emotional Distress

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

110. Plaintiff hereby incorporates by reference paragraphs 1-33, inclusive, as though set forth fully herein.

111. The acts and omissions of Defendants Does 11-15 as alleged in paragraphs 24-28 was extreme and outrageous conduct directed at Plaintiff that was calculated to cause Plaintiff severe emotional distress or was done with substantial certainty that Plaintiff would suffer severe emotional injury.

112. As the direct result of the foregoing acts and omissions of Defendants Does 11-15, Plaintiff suffered significant emotional and psychological damage.

113. As a direct and proximate result of the foregoing acts and omissions of Defendants Does 11-15, Plaintiff has sustained general damages in excess of \$1,000,000, according to proof, including, but not limited to: (a) the severe emotional and mental distress caused by the deliberate indifference to his emergency medical condition; (b) feelings of helplessness, anxiety, humiliation, and the loss of a sense of security, dignity, and pride; and (c) the cost of emotional and psychological therapy.

114. The foregoing acts and omissions of Defendants Does 11-15 were committed with unbridled malice that was despicable and done with intentional disregard for the emotional and psychological pain, suffering, and trauma it would cause Plaintiff. As a result, punitive damages should be awarded against Defendants Does 11-15.

ELEVENTH CAUSE OF ACTION

Defendant Doe 21

Negligence

115. Plaintiff hereby incorporates by reference paragraphs 1-33, inclusive, as though set forth fully herein.

116. Defendant Doe 21 was a GVPD officer involved with the arrest and transport of Plaintiff Peterson to the WBCF. As a consequence, this Defendant Doe 21 had a duty to exercise his authority and dominion over Plaintiff in a reasonable manner.

117. Defendant Doe 21 breached the foregoing duty by the acts and omissions described in paragraphs 19-22.

118. As the direct result of the foregoing breach by Defendant Doe 21 of his duty to Plaintiff, Plaintiff suffered serious physical and mental injury.

119. As a direct and proximate result of the foregoing acts and omission of Defendant Doe 21, Plaintiff has sustained general damages in excess of \$1,000,000, 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 deliberate indifference to his emergency medical condition, 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.

120. The foregoing acts and omissions of Defendant Doe 21 were committed with a reckless and callous disregard for the physical, emotional and psychological pain, suffering, and trauma it would cause Plaintiff, and was despicable. As a result, punitive damages should be awarded against Defendant Doe 21.

TWELFTH CAUSE OF ACTION

Defendant Doe 21

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

121. Plaintiff hereby incorporates by reference paragraphs 1-33, inclusive, as though set forth fully herein.

122. Defendant GVPD officer Doe 21 committed acts and omissions that constituted threats, intimidation, and coercion directed at Plaintiff in violation of: (a) Plaintiff's substantive due process right to be free of punishment prior to adjudication of the charges for which Plaintiff was to appear under the US Constitution; (b) Plaintiff's rights under Article 1, Section 7 & 17 of the California Constitution; and (c) Plaintiff's right to timely and effective medical care.

123. As a direct and proximate result of the foregoing acts and omission of Defendant Doe 21, Plaintiff has sustained general damages in excess of \$1,000,000, 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 deliberate indifference to his emergency medical condition, 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.

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

125. As the direct and proximate result of the foregoing conduct of Defendant Doe 21, Plaintiff is entitled to recover his costs and attorney's fees under Civil Code § 52(b) and § 52.1(h).

THIRTEENTH CAUSE OF ACTION

Defendant Doe 21

Intentional Infliction of Emotional Distress

1
2
3
4
5 126. Plaintiff hereby incorporates by reference paragraphs 1-33, inclusive, as
6 though set forth fully herein.

7 127. The acts and omissions of Defendant Doe 21 as alleged in paragraphs 19-22
8 was extreme and outrageous conduct directed at Plaintiff that was calculated to
9 cause Plaintiff severe emotional distress or was done with substantial certainty
10 that Plaintiff would suffer severe emotional injury.

11 128. As the direct result of the foregoing acts and omissions of Defendant Doe 21,
12 Plaintiff suffered significant emotional and psychological damage.

13 129. As a direct and proximate result of the foregoing acts and omissions of
14 Defendant Doe 21, Plaintiff has sustained general damages in excess of \$1,000,000,
15 according to proof, including, but not limited to: (a) the severe emotional and mental
16 distress caused by the deliberate indifference to his emergency medical condition;
17 (b) feelings of helplessness, anxiety, humiliation, and the loss of a sense of security,
18 dignity, and pride; and (c) the cost of emotional and psychological therapy.

19 130. The foregoing acts and omissions of Defendant Doe 21 were committed with
20 unbridled malice that was despicable and done with intentional disregard for the
21 emotional and psychological pain, suffering, and trauma it would cause Plaintiff.
22 As a result, punitive damages should be awarded against Defendant Doe 21.
23
24
25
26
27
28

FOURTEENTH CAUSE OF ACTION

Defendants Does 1-10

(Failure to Provide Medical Care Under GC §845.6)

131. Plaintiff hereby incorporates by reference paragraphs 1-33, inclusive, as though set forth fully herein.

132. Defendants Does 1-10 were public employees that had responsibility to provide medical care to inmates under Government Code §845.6.

133. Defendants Does 1-10 failed to take reasonable action to provide Plaintiff with medical care. As the direct result of this failure, Plaintiff suffered serious physical and mental injury.

134. As a direct and proximate result of the foregoing acts and omissions of Defendants Does 1-10, Plaintiff has sustained general damages in excess of \$1,000,000, 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 deliberate indifference to his emergency medical condition, 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.

FIFTEENTH CAUSE OF ACTION

Defendant Nevada County

**Respondeat Superior Liability Under California
Government Code §815.2(a) and/or Civil Code §52.1**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

135. Plaintiff hereby incorporates by reference paragraphs 1-33, inclusive, as though set forth fully herein.

136. Defendant Nevada County, which operates the NCSO and is the employer of Defendants Royal and Does 1-10, has full authority to train, supervise, and direct the actions of each of these defendants. Defendants Royal and Does 1-10 in their official capacities and in the performance of their duties engaged in the acts and omissions alleged in paragraphs 19-28.

137. 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 Second through Fourth, Eighth, and Thirteenth through Fourteenth Causes of Action.

138. Under California Civil Code §52.1, Nevada County is liable for any violation by its employees that committed acts and omissions that constituted threats, intimidation, and coercion directed at Plaintiff in violation of: (a) Plaintiff's substantive due process right to be free of punishment prior to adjudication of the charges for which Plaintiff was to appear under the US Constitution; (b) Plaintiff's rights under Article 1, Section 7 & 17 of the California Constitution; and (c) Plaintiff's right to timely and effective medical care.

139. As a direct and proximate result of the wrongful acts and omissions of Defendants Royal and Does 1-10, 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 in excess of \$1,000,000, according

1 to proof, including, but not limited to: (a) the serious physical pain and suffering
2 from the injuries to his body; (b) the severe emotional and mental distress caused by
3 the deliberate indifference to his emergency medical condition, including feelings of
4 helplessness, anxiety, humiliation, and the loss of a sense of security, dignity, and
5 pride; (c) the cost of medical treatment; and (d) the cost of emotional and
6 psychological therapy.

7
8 **SIXTEENTH CAUSE OF ACTION**

9 **Defendant City of Grass Valley**

10 **Respondeat Superior Liability Under California**
11 **Government Code §815.2(a) and/or Civil Code §52.1**

12 140. Plaintiff hereby incorporates by reference paragraphs 1-33, inclusive, as
13 though set forth fully herein.

14 141. Defendant City of Grass Valley trained and employed Defendant Doe 21 as a
15 police officer during all relevant times. Under California Government Code
16 §815.2(a), the City of Grass Valley is liable for any injury that is proximately caused
17 by the act or omission of its personnel within the scope of their duties, including all
18 of the acts and omissions alleged in the First, Eleventh, Twelfth, and Thirteenth
19 Causes of Action.

20 142. Under California Civil Code §52.1, the City of Grass Valley is liable for any
21 violation by its employees that committed acts and omissions that constituted
22 threats, intimidation, and coercion directed at Plaintiff in violation of: (a) Plaintiff's
23 substantive due process right to be free of punishment prior to adjudication of the
24 charges for which Plaintiff was to appear under the US Constitution; (b) Plaintiff's
25 rights under Article 1, Section 7 & 17 of the California Constitution; and (c)
26 Plaintiff's right to timely and effective medical care.

27 143. As a direct and proximate result of the wrongful acts and omissions of
28

1 Defendant Doe 21 for which Defendant City of Grass Valley is liable under the
2 doctrine of *respondeat superior* and/or California Government Code §815.6, Plaintiff
3 has sustained general damages in excess of \$1,000,000, according to proof,
4 including, but not limited to: (a) the serious physical pain and suffering from the
5 injuries to his body; (b) the severe emotional and mental distress caused by the
6 deliberate indifference to his emergency medical condition, including feelings of
7 helplessness, anxiety, humiliation, and the loss of a sense of security, dignity, and
8 pride; (c) the cost of medical treatment; and (d) the cost of emotional and
9 psychological therapy.

10 **SEVENTEENTH CAUSE OF ACTION**

11 **Defendants CMGC and Does 11-20**

12 **Medical Malpractice**

13 144. Plaintiff hereby incorporates by reference paragraphs 1-33, inclusive, as
14 though set forth fully herein.

15 145. Defendants CMGC and Does 11-20 were responsible for providing medical
16 care for inmates at the Jail that met professional medical practices and standards.

17 146. Defendants CMGC and Does 11-20 failed to comply with professional medical
18 practices and standards in the treatment of Plaintiff's injuries by, *inter alia*, failing
19 to: (a) diagnose Plaintiff's injury to his leg and other medical conditions; (b) send
20 Plaintiff for emergency care or otherwise provide emergency medical treatment for
21 Plaintiff's leg and other medical conditions; (c) provide Plaintiff with reasonable
22 housing and care while he was in custody at the Jail; and (d) provide or arrange for
23 medical transport of Plaintiff to an emergency facility.

24 147. As a direct and proximate cause of this negligence and failure to meet
25 applicable professional standards of care, Plaintiff suffered additional injury and
26 additional pain and suffering.

1 148. The foregoing acts and omissions of Defendants CMGC and Does 11-20 were
2 committed with callous and wanton disregard that was despicable and done with
3 full knowledge of the physical and mental pain and suffering to Plaintiff. As a
4 result, punitive damages should be awarded against Defendants CMGC and Does
5 11-20.

6
7 **PRAYER**

8 **Wherefore**, Plaintiff prays for judgment against Defendants as follows:

- 9 1. For general, consequential, and special damages in the sum set forth in each
10 count according to proof;
- 11 2. For punitive damages in a sum according to proof in Counts 1-4, 6-11, 13, and
12 17;
- 13 3. For reasonable attorney's fees and costs pursuant to 42 U.S.C. §1988 in
14 Counts 1-8;
- 15 4. For reasonable attorney's fees and costs pursuant to California Civil Code
16 §52(b) and §52.1(h) in Count 12;
- 17 5. For treble damages (3x consequential) pursuant to §52(a) and §52.1(b) in
18 Count 12;
- 19 6. For cost of suit herein incurred for all counts; and
- 20 7. For such other and further relief as the Court deems just and proper.

21
22 Dated: August 9, 2019

Respectfully,

23
24 By: /s/ Patrick H. Dwyer
25 Patrick H. Dwyer, SBN 137743
26 P.O. Box 1705; 17318 Piper Lane
27 Penn Valley, CA 95946
28 Tel: (530) 432-5407
Fax: (530) 432-9122
pdwyer@pdwyerlaw.com