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

9 Aram Mkrtchyan, an individual,
10 Plaintiff
11 v.
12 Sacramento County, California, a
13 county government and the operator
14 of the Sacramento County Sheriff's
15 Department and its Correctional
16 Health Services Division; and
17 the following persons as individuals
18 and in their capacity as officials,
19 employees or contractors of
20 Sacramento County:
21 R. Scott Jones;
22 Grant Nugent;
23 Deputy Dominguez;
24 Deputy Yang; Deputy Grout; Deputy
25 Meier, and
26 Does 1 through 40,
27 Defendants.

CASE NO.: 2:17-CV-2366-TLN-KJN

**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, AND
RESPONDEAT SUPERIOR LIABILITY**

JURY TRIAL DEMANDED

28 **I.**
INTRODUCTION

1 This is a civil rights action arising out of the deliberate and callous refusal to
2 send Plaintiff Aram Mkrtchyan for required surgery to repair a heel bone fracture
3 while Plaintiff was an inmate in the Sacramento County jail system.

4 **II.**
JURISDICTION AND VENUE

5 1. Jurisdiction over the federal causes of action under Title 42 U.S.C. §1983 are
6 proper in this Court under 28 U.S.C. §1331. Pendant Jurisdiction over the state
7 causes of action is proper under Title 28 U.S.C. §1367(a) and Title 28 U.S.C.
8 §1343(a)(3).

9 2. Venue is proper in this Court under 28 U.S.C. §1391(b) because all of the
10 defendants reside, and the acts complained of occurred, within the territorial
11 boundaries of this United States District Court.

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

15
16 **III.**
PARTIES

17 4. Plaintiff Aram Mkrtchyan (“Mkrtchyan” pronounced “*M-kirch-ien*”) is a
18 single male, age 33. Plaintiff Mkrtchyan resides at 10180 Country Way,
19 Sacramento, CA 95827.

20 5. Defendant Sacramento County, California, established and operates the
21 Sacramento County Sheriff’s Department (“SCSD”) which is responsible for the
22 staffing and operation of the Main Jail at 651 I Street, Sacramento, California
23 (“Main Jail”) and the Rio Cosumnes Correctional Center in Elk Grove, California
24 (“RCCC Jail”). Plaintiff is informed and believes, and on that basis alleges, that the
25 SCSD provides first response and day to day medical care to the inmates at the
26 RCCC Jail and the Main Jail through its Correctional Health Services Division.

1 The SCSD will employ outside medical contractors on “as-needed” basis.

2 6. Defendant R. Scott Jones is the Sheriff and is in command of the SCSD.

3 7. Defendant Deputy Dominguez (“Dominguez”) was employed by the SCSD and
4 was working as a deputy sheriff at the Sacramento County Main Jail, 651 I Street,
5 Sacramento, at the time of the events alleged below.

6 8. Defendant Deputy Yang (“Yang”) was employed by the SCSD and was
7 working as a deputy sheriff at the Sacramento County Main Jail, 651 I Street,
8 Sacramento, at the time of the events alleged below.

9 9. Defendant Deputy Grout (“Grout”) was employed by the SCSD and was
10 working as a deputy sheriff at the Sacramento County Main Jail, 651 I Street,
11 Sacramento, at the time of the events alleged below.

12 10. Defendant Deputy Meier (“Meier”) was employed by the SCSD and was
13 working as a deputy sheriff at the Sacramento County Main Jail, 651 I Street,
14 Sacramento, at the time of the events alleged below.

15 11. Defendant Grant Nugent was employed by the SCSD and was working as the
16 Director of its Correctional Health Services at the time of the events alleged below.

17 12. The true names and capacities of defendants sued herein as Does 1-40,
18 inclusive, whether individual, corporate, or otherwise are unknown to Plaintiff who,
19 therefore sues such defendants by such fictitious names. When their true names
20 and capacities are ascertained, Plaintiff will amend this complaint by asserting
21 their true names and capacities herein. Plaintiff is informed, believes and thereon
22 alleges, that at all times herein mentioned, all defendants, including Does 1
23 through 30, inclusive: (i) are qualified to do business in California, and/or did, in
24 fact, do business in California; (ii) jointly perpetrated the acts herein with their
25 co-defendants; (iii) were the successors in interest to, or agents, alter egos,
26 principals, co-tenants, partners, joint venturers, or co-conspirators of their

1 co-defendants in doing the things herein alleged; and/or (iv) were acting within the
2 scope of their authority or in furtherance of a common scheme or design with the
3 knowledge, permission, consent or ratification of their co-defendants in doing the
4 things herein alleged, and therefore are liable, jointly and severally, for all damages
5 and other relief or remedies sought by complainants in this action.

6 **IV.**
7 **BACKGROUND ALLEGATIONS**

8 **Duties of Sacramento County and the Sacramento County Sheriff's Department**

9 13. Defendant Sacramento County and the SCSD are obligated to have policies,
10 practices, and procedures to: (a) prevent the unlawful use of force against detainees
11 and inmates; and (b) provide timely and effectively response to the medical needs of
12 inmates ("PPs").

13 14. Defendant Sacramento County and the SCSD are obligated to adequately
14 train their deputy sheriffs and other correctional officers: (a) in the lawful use of
15 force with detainees and inmates; and (b) the timely and effectively response to the
16 medical needs of detainees and inmates.

17 15. Defendant Sacramento County and the SCSD are obligated to adequately
18 supervise their deputy sheriffs and correctional officers to verify the effectiveness
19 and enforcement of the PPs and training in the: (a) lawful use of force with
20 detainees and inmates; and (b) the timely and effectively response to the medical
21 needs of detainees and inmates.

22 16. Defendant Sacramento County and the SCSD maintain a video surveillance
23 system at the RCCC Jail and the Main Jail ("VSS"). Plaintiff is informed and
24 believes, and on that basis alleges, that the VSS was installed, in part, to verify that
25 the PPs are being followed, that training has been adequate, and that supervisors
26 are monitoring the conduct of deputies and other correctional officers in the lawful
27 use of force and the provision of timely and effective medical response for all
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1 inmates. Plaintiff is further informed and believes, and on that basis alleges, that
2 the VSS also provides a ready means for the SCSD to investigate inmate complaints
3 about these matters.

4 17. Plaintiff is informed and believes, and based thereon alleges, that there is a
5 custom and practice among the deputies in the SCSD, known in the vernacular of
6 police culture as the “blue wall of silence” or “blue code” to keep secret the errors,
7 misconduct, or crimes (including police brutality) of fellow officers. Under federal
8 and state constitutional and statutory law, Defendant Sacramento County and the
9 SCSD have a duty to break down this “blue wall of silence” among their deputies
10 and correctional officers so that the unlawful use of force is reported to superiors
11 without repercussions to non-offending deputies and correctional officers.

12 **The Failure to Provide Medical Care**

13 18. On or about July 12, 2016, Plaintiff was booked into Sacramento
14 County Main Jail pending trial and was transferred on or about July 29,
15 2016, to the RCCC Jail. Plaintiffs’ alleged offenses were non-violent and not
16 serious, so he was assigned to a low security barracks at the RCCC Jail called
17 the K barracks.

18 19. On or about 8:00 pm on August 29, 2016, Plaintiff was in the outdoor
19 exercise area attempting to retrieve a handball by climbing part way up the
20 cyclone fence that surrounds the exercise area. Plaintiff slightly misjudged
21 his landing when he pushed off the fence, back to ground. He intended to
22 land squarely on both feet, but instead, he landed on the heels of both feet,
23 with somewhat more weight on his right foot.

24 20. Plaintiff was on the ground dazed for a minute. He then began to feel
25 pain in both feet, especially his right foot. Plaintiff tried to stand, but fell
26 back down. Plaintiff then stood up again with his weight shifted onto his left
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1 foot. Plaintiff hopped the short distance (3-5 feet) to the door from the
2 exercise yard into the K barracks. Plaintiff was able to get the door open and
3 then get back to his bunk that, fortunately, was just inside this doorway to
4 the exercise yard.

5 21. The inmates near Plaintiff saw he was hurt and contacted the staff.
6 Plaintiff waited for someone on staff to respond, but no one came. After
7 waiting about an hour for someone to come, Plaintiff took some ibuprofen that
8 he had purchased from commissary. No staff member responded that night.

9 22. At approximately 4:15 am on or about August 30, 2016, Plaintiff had to
10 use the restroom, but was unable to do so without help. Plaintiff could not
11 call anyone for help, so Plaintiff hopped back out to the exercise area to
12 urinate. At approximately 7:00 am, Plaintiff needed to use the restroom
13 urgently, but Plaintiff was unable to contact anyone for help because there
14 were no emergency buttons in the dorm. Plaintiff had to crawl on his hands
15 and knees to the restroom and then pull himself onto a toilet. Plaintiff then
16 had to crawl on his hands and knees back to his bunk

17 23. At approximately 2:15 pm on or about August 30, 2016, a deputy
18 notified medical personnel of Plaintiff's injuries. At approximately 5:20pm on
19 or about August 30, 2016, Plaintiff was taken by wheelchair to the Medical
20 Housing Unit at the RCCC Jail ("MHU"). The MHU is a separate building at
21 the RCCC Jail and is a considerable distance from the K Barracks. The MHU
22 includes a barracks style dorm and is equipped with a nurse's station, wheel
23 chairs, adjustable hospital beds and bunks, and wheelchair accessible
24 showers and toilets. The MHU is located on what is called the "Honor Farm"
25 portion of the RCCC Jail that only houses sentenced inmates. Plaintiff is
26 informed and believes, and on that basis alleges, that pre-trial detainees are

1 kept in one of the four single person cells at the MHU on 24 hour lock down
2 basis while sentenced inmates housed are free to move around the MHU
3 dorm area. Plaintiff was awaiting trial, so he was placed in one of the single
4 person detention cells and he was kept there for approximately 48 hours.

5 24. At approximately 9:00 am on or about August 31, 2016, Plaintiff was
6 seen by an in-house nurse. Plaintiff's right ankle was severely swollen and
7 discolored, while Plaintiff's left ankle was only moderately swollen and
8 discolored. Plaintiff is informed and believes, and on that basis alleges, that
9 the nurse spoke by phone with a doctor who ordered that both feet be x-ray
10 imaged.

11 25. Plaintiff was then taken by wheelchair to a separate building for x-rays.
12 The technician proceeded to take images of Plaintiff's right ankle, which was
13 very swollen and discolored, but then did not take any images of Plaintiff's
14 left ankle, which was also swollen and discolored, although not as severely.
15 Plaintiff asked the technician why his left foot was not being imaged and the
16 tech said that the doctor didn't order x-rays for the left foot.

17 26. At approximately 11:30 pm on or about August 31, 2016, Plaintiff was
18 taken by wheelchair to an exam room at MHU where Plaintiff was examined
19 by a Mike Wolford, a contract orthopedic technician. Mr. Wolford took
20 photographic (not x-ray) images of Plaintiff's right foot and then put it into a
21 cast. No pictures were taken of Plaintiff's left foot, although it was bruised
22 and swollen. Upon completion, Plaintiff was taken back to his cell at MHU.

23 27. At approximately 11:00am on September 1, 2016, Plaintiff was visited
24 in his cell at the MHU by a male in-house physician to discuss the injuries
25 shown by the x-rays. This doctor told Plaintiff that there was a calcaneal
26 fracture in the right foot and ordered Plaintiff to not bear any weight on his
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1 right heel. The doctor further warned Plaintiff of serious adverse
2 consequences from not following his order because it would further shatter
3 the calcaneal bone. Plaintiff told this doctor that his left foot was not x-rayed
4 as was first prescribed. The doctor said this was due to a mis-communication
5 and he would reschedule the x-ray of Plaintiff's left foot as soon as possible.
6 However, no x-ray of the left foot was ever taken while Plaintiff was at the
7 RCCC Jail.

8 28. At approximately 2:00pm on September 1, 2016, Plaintiff was told by a
9 deputy that he would be moved back to the K barracks. Plaintiff was then
10 taken in a wheelchair to K barracks, but the wheelchair was taken away by
11 deputies and Plaintiff was left with the crutches he received from the nurses
12 at the MHU. Without a wheelchair, Plaintiff had to remain in his bunk,
13 except for visits to the bathroom which were difficult, painful, and dangerous
14 because they had to be made with the crutches and there were no features for
15 disabled inmates.

16 29. At approximately 9:00 am on September 2, 2016, a deputy came to
17 escort Plaintiff to an orthopedic surgeon appointment. However, the deputy
18 did not have a wheelchair. Plaintiff explained to the deputy that: (a) it was
19 extremely painful for him to crutch on his left foot because it had also been
20 injured in the accident; and (b) the doctor had warned Plaintiff not to put
21 even the slightest weight on his right foot. The deputy said "I don't have a
22 wheelchair, you can refuse the appointment by signing a refusal form."
23 Plaintiff had no choice but to use crutches for the long walk to an exam room
24 adjacent to the kitchen at the RCCC Jail. [This exam room was even further
25 away than the MHU building.] Plaintiff had to stop and rest approximately
26 five times on the way to the appointment because of the severe pain. The
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1 deputy, however, was completely insensitive and even contemptuous of
2 Plaintiff.

3 30. At the medical appointment on September 2, 2016, an orthopedic
4 surgeon consulted with Plaintiff about the injury to his right foot. The
5 surgeon said that it was an "Intra-Articular Displaced Calcaneal Fracture"
6 and required immediate surgery. The surgeon made it clear that the surgery
7 had to be performed within 7 to 10 days. Plaintiff was told that a CT scan
8 was also needed and that patients, such as Plaintiff, with a severe calcaneal
9 fracture may have additional injuries and a thorough evaluation of the spine
10 should be performed. Plaintiff was also told that an x-ray of left foot must be
11 done. Plaintiff was further warned that if the left foot had a hairline fracture
12 and Plaintiff put all his weight on it, this could also result in additional
13 severe damage. The surgeon stressed the importance of elevating Plaintiff's
14 feet as much as circumstances allow. The surgeon strongly emphasized that
15 the right foot must not have any weight bearing and that the left foot also
16 should not bear weight until x-ray images and further examination. Despite
17 the orthopedic surgeons express orders, Plaintiff was forced to return to the K
18 barracks on crutches.

19 31. Approximately twenty minutes after Plaintiff's arrival back at his K
20 barracks bunk, Plaintiff heard an intercom announcement for him to "roll up"
21 his things because he would be moving. A deputy came with a wheelchair to
22 transport him to another location at the RCCC jail called the "JKF". Plaintiff
23 is informed and believes, and on that basis alleges, that in contrast to the K
24 barracks which are for low security inmates, the JKF is a medium security
25 area at the RCCC Jail that is nicknamed the "thunder dorm" due to its
26 reputation of frequent inmate fights. Plaintiff had never had a disciplinary
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1 write-up and he was not told why he was being placed there.

2 32. Plaintiff, being seriously injured and defenseless, was terrified at being
3 placed at the JKF unit because it is a two-tiered pod that consists of
4 approximately 50 double bunks on each tier, with about three feet between
5 the double bunks. Upon arrival, Plaintiff crutched over to the bathroom to
6 see if it had appropriate safety features for disabled persons, such as a bench
7 to sit on while showering and hand rails for the toilets; there was neither.
8 Obviously, Plaintiff was going to have an extremely hard time maneuvering
9 on crutches and getting in/out of a bunk.

10 33. Plaintiff was so upset and fearful that he had a severe anxiety attack
11 that felt like he was having a heart attack. Plaintiff pushed the emergency
12 button in the JKF dayroom and he was escorted on his crutches to a small
13 exam room adjacent to the JKF pod. Plaintiff pleaded with the nurse to not
14 send him back to the JKF pod. When she indicated that it was not her
15 decision, Plaintiff refused to go back to JKF pod.

16 34. Plaintiff was escorted on his crutches by a deputy and put in a holding
17 tank at the JKF pending resolution. About a half hour later, three male
18 sergeants came to talk to Plaintiff. Plaintiff estimates that they were about
19 45 to 50 years old. After some discussion, these sergeants told Plaintiff that
20 he could not be housed in the regular dorm area at the MHU (which has
21 wheelchair accessible showers and toilets for disabled persons) because
22 Plaintiff was not a convicted inmate, just a pre-trial inmate. They also did
23 not say why Plaintiff could not stay in one of the four cells at the MHU for
24 pre-trial inmates. In addition, these sergeants told Plaintiff that wheelchairs
25 were not issued to inmates and were only used for a "man down" situation.
26 These sergeants then told Plaintiff that if he promised not to request a
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1 wheelchair in the future, he would be allowed to go back to the K Barracks on
2 his crutches. Plaintiff told them that it was cruel and dangerous to deny him
3 a proper facility and to make him use crutches. The sergeants became angry
4 with Plaintiff. They handcuffed him, pushed him into a wheelchair, and took
5 him to administrative segregation in the SBF maximum security facility at
6 the RCCC Jail.

7 35. Plaintiff was housed in the administrative segregation cell for the next
8 four days. Plaintiff was denied his crutches for two days and he had no access
9 to a shower that was disability equipped or a toilet that had disability
10 handles.

11 36. Early morning on the morning of September 6, 2016, Plaintiff was
12 notified that he would be going back to the Main Jail. A deputy came with a
13 wheelchair to take Plaintiff from his cell to where Plaintiff was to wait for a
14 bus. Plaintiff was placed into an inmate-attorney visitation room that was
15 approximately three feet square. It was an almost impossible place for
16 Plaintiff in his condition. After about 45 to 60 minutes in this room, Plaintiff
17 knocked on the door to get a deputy's attention and tell them he can't stay in
18 this little room with his injuries and crutches. A deputy came and told
19 Plaintiff to stop banging on the door. Finally, Plaintiff was taken outside,
20 using his crutches, to the actual bus loading area. Plaintiff was the last
21 person allowed to board. Plaintiff was taken to the rear door and told to place
22 his crutches inside and then crawl and drag himself up the stairs into the
23 bus. No deputy would help him. When Plaintiff got onto the floor of the bus,
24 he then had to lift himself onto a bench style seat.

25 37. Upon arrival at the Main Jail at approximately 7:00 am, two deputies,
26 one on each arm, lifted Plaintiff down off the bus and gave Plaintiff his
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1 crutches. Plaintiff was escorted to the entrance and upon entering the jail, he
2 was approached by Deputy Dominguez. The first thing Deputy Dominguez
3 said to Plaintiff was: "you're the jihadist I've been hearing about giving my
4 partners a hard time at RCCC". Plaintiff was stunned: he is an American
5 citizen of Armenian ancestry and not a muslim. Plaintiff responded: "I'm
6 suffering, coward, have some sympathy". Deputy Dominguez then grabbed
7 Plaintiff's crutches and made Plaintiff hop to an attorney-client no-contact
8 interview room and get inside. The room was about three by three feet and
9 Plaintiff sat on a small stone chair unable to put his legs in a safe or
10 comfortable position. After about 45 minutes, Plaintiff knocked on the door to
11 be allowed to go use the bathroom. No one would respond and Plaintiff had to
12 relieve himself on the floor of the small room. Nearly one hour later, Deputy
13 Dominguez opened the door, noticed the urine on the floor, and called
14 Plaintiff a "rag head pussy" and closed the door and left. After approximately
15 another hour, Dominguez let Plaintiff out and escorted him on his crutches to
16 a holding tank with a toilet. Dominguez took Plaintiff's crutches.

17 38. Plaintiff had another serious panic attack with chest pain. Plaintiff hit
18 the emergency button and a female deputy responded over the intercom.
19 Plaintiff told her that he was having serious chest pain. Plaintiff crawled
20 back to the bench, waited for a short time and crawled back to activate the
21 button again. Again the female deputy responds on the intercom and
22 Plaintiff states his medical emergency. Plaintiff then crawls back near the
23 bench, but is unable to lift himself and remains on the floor. Deputy
24 Dominguez approaches the holding tank door and tells Plaintiff to "stop
25 hitting the medical button, you making me look bad" and threatens Plaintiff
26 with repercussions if he does not stop. After about 20 minutes, Plaintiff's
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1 chest still had serious pain and he again activated the medical emergency
2 button. The same female deputy responded on the intercom and Plaintiff
3 again asks for urgent care.

4 39. At approximately 9:10 am, two nurses responded and examined
5 Plaintiff. These nurses requested that Plaintiff be immediately taken to 2
6 East Medical for an EKG. This was at about 10:00 am. However, Plaintiff
7 was not taken for an EKG until approximately 4:30pm. Plaintiff is informed
8 and believes, and on that basis alleges, that it was Deputy Dominguez that
9 prevented the nurses from responding to Plaintiff sooner and that he then
10 delayed Plaintiff being taken to the medical unit for an EKG for many hours.

11 40. At approximately 7 p.m. on September 10, 2016, Plaintiff was
12 attempting to move about in his cell at the Main Jail medical pod when one of
13 the crutches he had been issued at RCCC Jail broke. [Plaintiff is informed
14 and believes, and on that basis alleges, that the crutches he had been issued
15 were used and made from miscellaneous crutch parts.] Plaintiff lost his
16 balance and fell in his cell. Plaintiff used the emergency button to summon a
17 nurse. The nurses examined Plaintiff's crutches, took them away and finally
18 issued Plaintiff a wheelchair. While the nurse was exchanging the broken
19 crutches for the wheelchair, Plaintiff again asked about having his left foot
20 examined, including x-ray imaging. The nurses said this had been scheduled
21 for the next few days.

22 41. On or about September 12, 2016, Plaintiff finally had his left foot
23 examined, including x-rays. The images revealed that Plaintiff had severely
24 bruised his left heel at the same time as his right heel.

25 42. Between September 1, 2016 and October 10, 2016, Plaintiff had
26 repeatedly asked when he was going to be sent out for surgery on his right
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1 foot as ordered by the orthopedic surgeon (see paragraph 30). Plaintiff just
2 kept being told that it was about to happen, but it never did. Consequently,
3 on or about October 10, 2016, Plaintiff prepared and submitted a grievance
4 form that was signed for by Deputy Ross.

5 43. The next morning, Plaintiff was taken to San Joaquin County Hospital.
6 There he was told by the orthopedic surgeon at the hospital that it is too late
7 for the surgery that should have been done within the first week. Instead,
8 Plaintiff was told that he would now require multiple surgeries and that his
9 heel bone would never heal correctly, leaving Plaintiff with a disability.

10 44. On or about February 2, 2017, a Deputy Campbell came to Plaintiff's
11 cell (2 East 105) as part of his regular routine inmate check. Deputy
12 Campbell stopped and told Plaintiff that "you are starting to make too much
13 noise upstairs and from past experience I can tell you that when you start
14 going against the department and the county, they will eventually push
15 back". Deputy Campbell did not say this to Plaintiff in a threatening manner,
16 but to inform Plaintiff that, because of the grievances Plaintiff had been
17 filing, as well as Plaintiff's tort claim (see paragraph 49), Plaintiff was being
18 discussed in a hostile manner by more senior jail officers.

19 45. On or about February 2, 2017, Plaintiff was taken to an appointment
20 with a Dr. Neblet at the Main Jail. Plaintiff explained that he had been
21 ordered to have surgery on his right foot within seven days of the original
22 injury, but that Plaintiff had never been scheduled for this crucial surgery.
23 Dr. Neblet agreed with the original diagnosis and order for immediate
24 surgery. Dr. Neblet observed that Plaintiff's right foot was still swollen,
25 painful, limited in range of motion, and that the heel bone had partially
26 healed, but incorrectly due to the failure to have timely surgery. Dr. Neblet

1 also noted that Plaintiff was experiencing typical side effects, such as back
2 pain. Dr. Neblet agreed that Plaintiff should have been using a wheelchair
3 and a walker, not crutches. Further, Dr. Neblet agreed that Plaintiff should
4 continue to be housed in the MHU at the Main Jail.

5 46. At approximately 10:00 am on February 2, 2017, deputies came to
6 Plaintiff's cell at the MHU and took Plaintiff's wheelchair, gave Plaintiff a
7 cane, and told Plaintiff to pack his things because he was being moved
8 upstairs. Plaintiff had no choice but to comply.

9 47. At approximately 2:30 am on February 6, 2017, Plaintiff arrived on the
10 6th floor of the Main Jail with a lower tier, lower bunk clearance. Plaintiff
11 was met by a Deputy Yang who had a deputy trainee with him. While
12 waiting to go to the new bunk, Deputy Yang remarked "Do something about
13 the beard dope fiend or you won't get blankets". Plaintiff asked what he
14 meant by that and Deputy Yang said "I got clippers in here go in the class
15 room and cut it". Plaintiff remained silent and did not take the clipper.
16 Plaintiff was then told to go to 100 pod cell 19. Plaintiff objected because this
17 was a top tier cell and he was cleared for a lower tier cell. Deputy Yang
18 replied "dope fiend, you go or we'll take you and don't grab blankets".
19 Plaintiff complied and had to drag his bag of belongings behind him (about 80
20 lbs.) while using only a cane.

21 48. When Plaintiff entered the pod for his new cell, Plaintiff observed that
22 the AC in the cell was blowing full blast and it was cold. Plaintiff had just
23 been denied blankets because he refused to shave his beard. Plaintiff was
24 able to wait about 45 minutes before he had to hit the emergency button in
25 the cell. When the deputy answered the bell, Plaintiff begged for some
26 blankets, but the deputy responded "we don't have blankets on the floor".

1 Plaintiff tried again a couple of times and the second time Plaintiff said he
2 would shave his beard in exchange for blankets. Deputy Yang replied "it's too
3 late, the offer is off the table". The next morning, a fellow inmate brought
4 Plaintiff blankets.

5 49. At approximately 2:40 pm on February 8, 2017, the deputy on shift
6 came on the microphone in Plaintiff's cell and told him to come to the control
7 booth on the lower tier. As Plaintiff was trying to go down the stairs from the
8 top tier, he lost his balance and rolled down the stairs. Deputy Meier and
9 nurses arrived with a wheelchair. They picked Plaintiff up and took him by
10 wheelchair to the MHU. Plaintiff was examined by a Dr. Henderson who
11 concluded that Plaintiff had a swollen right foot (i.e., had re-injured his right
12 ankle), but was otherwise ok and Plaintiff was cleared back to his cell.

13 Plaintiff asked Dr. Henderson to order that Plaintiff be put in more accessible
14 housing, Dr. Henderson refused.

15 50. A Deputy Meier, who was familiar with Plaintiff's injuries, refused to
16 give Plaintiff a wheelchair ride over to the elevator that would take Plaintiff
17 back up to the top tier. Plaintiff got up from the wheelchair and then hopped
18 on his left foot for about 10 feet, but that was so painful that Plaintiff then
19 crawled for another 20 feet and got on the elevator. When Plaintiff got back
20 upstairs (the 6th floor), he asked the deputy to house him in a lower tier
21 lower bunk. Deputy Grout told Plaintiff to go back to the bunk he had been
22 assigned. Plaintiff explained how he had just fallen down the stairs, but
23 Deputy Grout told Plaintiff to "stop fabricating problems that you don't have".
24 Plaintiff did his best to go back up the stairs, but he could not.

25 51. On or about February 8, 2017, Plaintiff was finally re-assigned to a
26 lower tier in the Main Jail. However, Plaintiff was still not given a wheel
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1 chair and he had to use a cane until the date of his release on or about April
2 23, 2017.

3 52. At all relevant times to the foregoing factual allegations, Plaintiff repeatedly
4 told every deputy in charge of the areas in which he was housed that he was in need
5 of: (a) surgery for his foot; (b) a wheelchair; (c) access to bath and toilet facilities
6 that were suitably equipped for the handicapped; and (d) housing on the ground
7 floor with a lower bunk assignment.

8 53. On or about February 2, 2017, Plaintiff filed a grievance with the jail
9 authorities about his mis-treatment, inability to shower, and the lack of any
10 ADA compliant showers and bathroom facilities. The grievance was denied
11 on or about April 5, 2017. A true and correct copy of the grievance and denial
12 is attached as Exhibit 1.

13 54. On or about January 31, 2017, Plaintiff completed a tort claim form and
14 sent the completed form to the Clerk of the Board of Supervisors for
15 Sacramento County. The claim was apparently received by the Board of
16 Supervisors on or about February 14, 2017. The claim was denied by
17 Sacramento County on or about March 30, 2017, through the inaction of the
18 Board within 45 days of the filing of the claim. A true and correct copy of
19 Plaintiff's tort claim and written denial thereof is attached as Exhibit 2.

V.
Claims For Violation of Federal Civil Rights Under 42 U.S.C. §1983

FIRST CAUSE OF ACTION

Defendant Sacramento County

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

55. Plaintiff hereby incorporates by reference paragraphs 1 through 53, inclusive, as though set forth fully herein.

56. Sacramento County has failed to adequately establish policies and procedures ("PPs") regarding the timely and effective provision of medical services for inmates that are adequate for protecting the right of inmates to medical care.

57. Sacramento County has failed to adequately train its personnel regarding the timely and effective provision of medical care for inmates.

58. Sacramento County has failed to adequately monitor or enforce policies and procedures for the timely and effective provision of medical care for inmates.

59. Sacramento County has failed to adequately supervise its personnel regarding the timely and effective provision of medical care for inmates.

60. Examples of the failures of Sacramento County as described in paragraphs 56 to 59 are contained in numerous federal civil rights actions that have been filed against Sacramento County for deliberate and callous disregard of inmate medical needs, including without limitation: *Mayfield v. Orozco, et al.*, 2:13-CV-02499; *Shannon v. County of Sacramento, et al.*, 2:13-CV-1834; *Estes v. Sacramento County, et al.*, 2:13-CV-0946; *Estate of Scott v. County of Sacramento, et al.*, 2:13-CV-00024; *Phillips v. Sacramento County, et al.*, 2:12-CV-00045; *Shields v. Cannon, et al.*, 2:11-CV-03185; *Tandel v. County of Sacramento, et al.*, 2:11-CV-00353; *Gonzales v. County of Sacramento, et al.*, 2:06-CV-01707; and *Kirk v. County of Sacramento, et al.*, 2:05-CV-1777. Plaintiff is informed and believes, and on that

1 basis alleges, that there are numerous additional instances of deliberate and callous
2 indifference by Sacramento County to the medical needs of inmates in the previous
3 ten years, including other actions at law, tort claims filed with the Sacramento
4 County Board of Supervisors, and grievances filed by inmates at Sacramento jail
5 facilities. Collectively, these demonstrate a persistent, not sporadic, pattern of
6 wrongful conduct by Sacramento County.

7 61. It was known and/or obvious to Sacramento County that the acts and
8 omissions described in paragraphs 56-60 would be likely to cause serious violation
9 of the constitutional rights of inmates to timely and effective medical care.

10 62. The acts and omissions in paragraphs 56-60 were done under the color of
11 state law and they were the direct and proximate cause of the violation of the
12 constitutional rights of Plaintiff. These acts and omissions continued for at least a
13 year prior to the institution of this action and Plaintiff is informed and beleives, and
14 on that basis alleges, that these acts and omissions continue until the present time.
15 As a consequence, Sacramento County's acts and omissions in paragraphs 56-60
16 constitute deliberate indifference to, and a callous disregard for, the constitutional
17 rights of inmates in Sacramento County jails.

18 63. As a direct and proximate result of the wrongful acts and omissions of
19 Sacramento County as set forth above, Plaintiff has sustained general damages of
20 an estimated \$3,000,000, according to proof, including, but not limited to: (a) the
21 serious physical pain and suffering from the daily repeated injury to his body; (b)
22 the severe emotional and mental distress caused by the daily infliction of physical
23 and psychological pain, including feelings of helplessness, anxiety, humiliation, and
24 the loss of a sense of security, dignity, and pride; (c) the cost of medical treatment;
25 (d) the cost of emotional and psychological therapy; and (e) the loss of future
26 economic damages to permanent physical disability.

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

4
5 **SECOND CAUSE OF ACTION**

6 **Defendants Dominguez, Yang, Meier, Grout and Does 1 through 10**
7 **Individual Liability for Violation of Plaintiff's Constitutional Rights**
8 **(Deliberate and Callous Disregard for Plaintiff's Known Medical Problem)**

9 61. Plaintiff hereby incorporates by reference paragraphs 1 through 53, inclusive,
10 as though set forth fully herein.

11 62. Defendants Dominguez, Yang, Meier, Grout, and Does 1 through 10 were
12 aware of Plaintiff's medical problem and his need for: (a) timely surgery for
13 Plaintiff's calcaneal bone (right foot); (b) the use of a wheelchair and other means to
14 allow Plaintiff not to bear weight on his feet until they had healed; (c) shower and
15 bathroom facilities designed for handicapped persons; and (d) housing on the
16 ground floor with a lower bunk assignment. However, these defendants
17 deliberately and callously disregarded Plaintiff's medical needs, thereby denying
18 Plaintiff his constitutional right to timely and effective medical care.

19 63. The foregoing acts and omissions were violations of Plaintiff's substantive
20 due process right to be free of punishment prior to adjudication of the charges
21 pending against Plaintiff under the Fourteenth Amendment of the U.S.
22 Constitution and/or the prohibition of cruel and unusual punishment under the
23 Eight Amendment to the U.S. Constitution.

24 64. The foregoing acts and omissions of Defendants Dominguez, Yang, Meier,
25 Grout, and Does 1 through 10 were done under the color of state law and were the
26 direct and proximate cause of the violation of the constitutional rights of Plaintiff.

27 65. As a direct and proximate result of the foregoing conduct of Defendants
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1 Dominguez, Yang, Meier, Grout, and Does 1 through 10 as set forth above, Plaintiff
2 has sustained general damages of an estimated \$3,000,000, according to proof,
3 including, but not limited to: (a) the serious physical pain and suffering from the
4 daily repeated injury to his body; (b) the severe emotional and mental distress
5 caused by the daily infliction of physical and psychological pain, including feelings
6 of helplessness, anxiety, humiliation, and the loss of a sense of security, dignity, and
7 pride; (c) the cost of medical treatment; (d) the cost of emotional and psychological
8 therapy; and (e) the loss of future economic damages to permanent physical
9 disability.

10 66. As a direct and proximate result of the foregoing conduct of Defendants
11 Dominguez, Yang, Meier, Grout, and Does 1 through 10, Plaintiff has been forced to
12 file this action under 42 U.S.C. §1983, and is entitled to recover his attorneys fees
13 and costs under 42 U.S.C. §1988.

14 67. The foregoing acts and omissions of Defendants Dominguez, Yang, Meier,
15 Grout, and Does 1 through 10 were committed with unbridled malice that was
16 despicable and done with full knowledge of the physical and mental pain and
17 suffering to Plaintiff. As a result, punitive damages should be awarded against
18 Defendants Defendants Dominguez, Yang, Meier, Grout, and Does 1 through 10.

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20 **THIRD CAUSE OF ACTION**

21 **Defendants Dominguez, Yang, Meier, Grout and Does 11 through 20**
22 **Individual Liability for Violation of Plaintiff's Constitutional Rights**
23 **(Intentional Infliction of Physical and Emotional Pain)**

24 68. Plaintiff hereby incorporates by reference paragraphs 1 through 53, inclusive,
25 as though set forth fully herein.

26 69. Defendants Dominguez, Yang, Meier, Grout, and Does 1 through 10
27 knowingly and intentionally ignored Plaintiff's serious physical disability and pain

1 and as described above: (a) denied Plaintiff the use of a wheelchair; (b) forced
2 Plaintiff to walk excessive distances on crutches or with a cane; (c) forced Plaintiff
3 to crawl on the ground; (d) denied Plaintiff the use of shower and bathroom
4 facilities for handicapped persons; (e) denied Plaintiff a bunk in a medical unit; (f)
5 denied Plaintiff a bunk on a ground floor; and (g) denied Plaintiff a bunk on the
6 lower tier of a double bunk. The foregoing conduct was extreme and outrageous and
7 was calculated to cause Plaintiff severe emotional distress or was done with
8 substantial certainty that Plaintiff would suffer severe emotional injury.

9 70. As the direct result of the foregoing of Defendants Dominguez, Yang, Meier,
10 Grout, and Does 1 through 10, Plaintiff suffered severe emotional and psychological
11 damage.

12 71. The foregoing acts and omissions of Defendants Dominguez, Yang, Meier,
13 Grout, and Does 1 through 10, were violations of Plaintiff's substantive due process
14 right to be free of punishment prior to adjudication of the charges pending against
15 Plaintiff under the Fourteenth Amendment of the U.S. Constitution and/or the
16 prohibition of cruel and unusual punishment under the Eight Amendment to the
17 U.S. Constitution.

18 72. The foregoing acts and omissions of Defendants Dominguez, Yang, Meier,
19 Grout, and Does 1 through 10 were done under the color of state law and were the
20 direct and proximate cause of the violation of the constitutional rights of Plaintiff.

21 73. As a direct and proximate result of the foregoing conduct of Defendants
22 Dominguez, Yang, Meier, Grout, and Does 1 through 10 as set forth above, Plaintiff
23 has sustained general damages of an estimated \$3,000,000, according to proof,
24 including, but not limited to: (a) the serious physical pain and suffering from the
25 daily repeated injury to his body; (b) the severe emotional and mental distress
26 caused by the daily infliction of physical and psychological pain, including feelings
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1 of helplessness, anxiety, humiliation, and the loss of a sense of security, dignity, and
2 pride; (c) the cost of medical treatment; (d) the cost of emotional and psychological
3 therapy; and (e) the loss of future economic damages to permanent physical
4 disability..

5 74. As a direct and proximate result of the foregoing conduct of Defendants
6 Defendants Dominguez, Yang, Meier, Grout, and Does 1 through 10 , Plaintiff has
7 been forced to file this action under 42 U.S.C. §1983, and is entitled to recover his
8 attorneys fees and costs under 42 U.S.C. §1988.

9 75. The foregoing acts and omissions of Defendants Dominguez, Yang, Meier,
10 Grout, and Does 1 through 10 were committed with unbridled malice that was
11 despicable and done with full knowledge of the physical and mental pain and
12 suffering to Plaintiff. As a result, punitive damages should be awarded against
13 Defendants Defendants Dominguez, Yang, Meier, Grout, and Does 1 through 10.

14 **FOURTH CAUSE OF ACTION**

15 **R. Scott Jones, Grant Nugent, and Does 11-20**

16 **Supervisory Liability for Violation of Plaintiff's Constitutional Rights**
17 **Under 42 U.S.C . §1983**
(Deliberate and Callous Disregard for Inmate Medical Needs)

18 76. Plaintiff hereby incorporates by reference paragraphs 1 through 53, inclusive,
19 as though set forth fully herein.

20 77. R. Scott Jones, Grant Nugent and Does 11-20 are supervisors of the SCSD,
21 its Correctional Health Services Division, the RCCC Jail, and/or the Main Jail and
22 are responsible, directly or indirectly, in whole or in part, for the provision of
23 medical care to inmates at the RCCC Jail and the Main Jail. R. Scott Jones, Grant
24 Nugent, and Does 11-20 either: (a) knew that there were inadequate PPs regarding
25 the timely and effective provision of medical care to inmates; (b) knew that there
26 was inadequate training, supervision, or control of subordinates responsible for
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1 providing timely and effective medical care to inmates; (c) had a reckless or callous
2 indifference to the right of inmates to timely and effective medical care; and/or (d)
3 acquiesced in the conduct of Defendants Dominguez, Yang, Meier, Grout and Does 1
4 through 10 as alleged in paragraphs 62 and 69.

5 78. The foregoing acts and omissions of R. Scott Jones, Grant Nugent, and Does
6 11-20 were done under the color of state law that were the direct and proximate
7 cause of the violation of the constitutional rights of Plaintiff.

8 79. As a direct and proximate result of the wrongful conduct of R. Scott Jones,
9 Grant Nugent, and Does 11-20 as set forth above, Plaintiff has sustained general
10 damages of an estimated \$3,000,000, according to proof, including, but not limited
11 to: (a) the serious physical pain and suffering from the daily repeated injury to his
12 body; (b) the severe emotional and mental distress caused by the daily infliction of
13 physical and psychological pain, including feelings of helplessness, anxiety,
14 humiliation, and the loss of a sense of security, dignity, and pride; (c) the cost of
15 medical treatment; (d) the cost of emotional and psychological therapy; and (e) the
16 loss of future economic damages to permanent physical disability.

17 80. As a direct and proximate result of the foregoing conduct of R. Scott Jones,
18 Grant Nugent, and Does 11-20, Plaintiff has been forced to file this action under 42
19 U.S.C. §1983, and is entitled to recover his attorneys fees and costs under 42 U.S.C.
20 §1988.

21 81. The foregoing acts and omissions of R. Scott Jones, Grant Nugent, and Does
22 11 through 20 were committed with unbridled malice that was despicable and done
23 with full knowledge of the physical and mental pain and suffering to Plaintiff.
24 Accordingly, punitive damages should be awarded against R. Scott Jones, Grant
25 Nugent, and Does 11 through 20.

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VI.
STATE LAW CLAIMS
FIFTH CAUSE OF ACTION

Defendants Dominguez, Yang, Meier, Grout, and Does 1-10
Intentional Infliction of Emotional Distress

82. Plaintiff hereby incorporates by reference paragraphs 1 through 54, inclusive, as though set forth fully herein.

83. The acts and omissions of Defendants Dominguez, Yang, Meier, Grout, and Does 1 through 10 described in paragraphs 15-48 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.

84. As the direct result of the foregoing acts and omissions of Defendants Dominguez, Yang, Meier, Grout, and Does 1 through 10, Plaintiff suffered severe emotional and psychological damage.

85. As a direct and proximate result of the foregoing acts and omissions of Defendants Dominguez, Yang, Meier, Grout, and Does 1 through 10, Plaintiff has sustained general damages of an estimated \$3,000,000, according to proof, including, but not limited to: (a) the serious physical pain and suffering from the injuries to his body; (b) 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.

86. The foregoing acts and omissions of Defendants Dominguez, Yang, Meier, Grout, and Does 1 through 10 were committed with unbridled malice that was despicable and done with intentional disregard for the emotional and psychological

1 pain, suffering, and trauma it would cause Plaintiff. As a result, punitive damages
2 should be awarded against Defendants Dominguez, Yang, Meier, Grout, and Does 1
3 through 10.

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5 **SIXTH CAUSE OF ACTION**

6 **Defendants Dominguez, Yang, Meier, Grout, and Does 1 through 10**

7 **Negligence**

8 87. Plaintiff hereby incorporates by reference paragraphs 1 through 54,
9 inclusive, as though set forth fully herein.

10 88. Defendants Dominguez, Yang, Meier, Grout, and Does 1 through 10 each
11 held positions of authority and dominion over Plaintiff that determined whether
12 Plaintiff received timely and effectively medical care. As a consequence,
13 Defendants Dominguez, Yang, Meier, Grout, and Does 1 through 10 had a duty to
14 exercise their authority and dominion over Plaintiff in a reasonable manner.

15 89. Defendants Dominguez, Yang, Meier, Grout, and Does 1 through 10 breached
16 the foregoing duty by the acts and omissions described in paragraphs 15-48.

17 90. As the direct result of the breach by Defendants Dominguez, Yang, Meier,
18 Grout, and Does 1 through 10 of their duty to Plaintiff, Plaintiff suffered serious
19 physical and mental injury.

20 91. As a direct and proximate result of the foregoing acts and omission of
21 Defendants Dominguez, Yang, Meier, Grout, and Does 1 through 10, Plaintiff has
22 sustained general damages of an estimated \$3,000,000, according to proof,
23 including, but not limited to: (a) the serious physical pain and suffering from the
24 injuries to his body; (b) the severe emotional and mental distress, including feelings
25 of helplessness, anxiety, humiliation, and the loss of a sense of security, dignity, and
26 pride; (c) the cost of medical treatment; and (d) the cost of emotional and
27 psychological therapy.

SEVENTH CAUSE OF ACTION

Defendants Dominguez, Yang, Meier, Grout, and Does 1 through 10

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

92. Plaintiff hereby incorporates by reference paragraphs 1 through 54, inclusive, as though set forth fully herein.

93. Defendants Dominguez, Yang, Meier, Grout, and Does 1 through 10 committed acts and omissions that constituted threats, intimidation, and coercion directed at Plaintiff in violation of : (a) Plaintiffs right to seek redress of his grievances under the US and California Constitutions; (b) 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; (c) Plaintiff's rights under Article 1, Section 7 & 17 of the California Constitution; and (d) Plaintiff's right to timely and effective medical care.

94. As a direct and proximate result of the foregoing acts and omission of Defendants Dominguez, Yang, Meier, Grout, and Does 11 through 20, Plaintiff has sustained general damages of an estimated \$3,000,000, 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.

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

96. As the direct and proximate result of the foregoing conduct of Defendants Dominguez, Yang, Meier, Grout, and Does 1 through 10, Plaintiff is entitled to recover his costs and attorneys fees under Civil Code § 52(b) and § 52.1(h).

EIGHTH CAUSE OF ACTION

**Defendants Nugent, Dominguez, Yang, Meier, Grout, and Does 1 through 10
(Failure to Provide Medical Care Under GC §845.6)**

97. Plaintiff hereby incorporates by reference paragraphs 1 through 54, inclusive, as though set forth fully herein.

98. Defendants Nugent Dominguez, Yang, Meier, Grout, and Does 1 through 10 were public employees that had responsibility to provide medical care to inmates under Government Code §845.6.

99. Defendants Nugent, Dominguez, Yang, Meier, Grout, and Does 1 through 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.

100. As a direct and proximate result of the foregoing acts and omissions of Defendants Nugent, Dominguez, Yang, Meier, Grout, and Does 1 through 10, Plaintiff has sustained general damages of an estimated \$3,000,000, 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, 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.

NINTH CAUSE OF ACTION

R. Scott Jones, Grant Nugent, and Does 11-20

Supervisory Liability

101. Plaintiff hereby incorporates by reference paragraphs 1 through 54, inclusive, as though set forth fully herein.

102. R. Scott Jones, Grant Nugent, and Does 11-20 are supervisors of the SCSD, its Correctional Health Services Division, the RCCC Jail, and/or the Main Jail and

1 are responsible, directly or indirectly, in whole or in part, for the provision of
2 medical care to inmates at the RCCC Jail and the Main Jail. R. Scott Jones, Grant
3 Nugent, and Does 11-20 either: (a) knew that there were inadequate PPs regarding
4 the timely and effective provision of medical care to inmates; (b) knew that there
5 was inadequate training, supervision, or control of subordinates responsible for
6 providing timely and effective medical care to inmates; (c) had a reckless or callous
7 indifference to the right of inmates to timely and effective medical care; and/or (d)
8 acquiesced in the conduct of Defendants Dominguez, Yang, Meier, Grout and Does 1
9 through 10 as alleged in paragraphs 13 through 53.

10 103. As a direct and proximate result of the foregoing acts and omissions of R.
11 Scott Jones, Grant Nugent, and Does 11-20 as set forth above, Plaintiff has
12 sustained general damages of an estimated \$3,000,000, according to proof,
13 including, but not limited to: (a) the serious physical pain and suffering from the
14 daily repeated injury to his body; (b) the severe emotional and mental distress
15 caused by the daily infliction of physical and psychological pain, including feelings
16 of helplessness, anxiety, humiliation, and the loss of a sense of security, dignity, and
17 pride; (c) the cost of medical treatment; (d) the cost of emotional and psychological
18 therapy; and (e) the loss of future economic damages to permanent physical
19 disability.

20 104. The foregoing acts and omissions of R. Scott Jones, Grant Nugent, and Does
21 11 through 20 were committed with unbridled malice that was despicable and done
22 with full knowledge of the physical and mental pain and suffering to Plaintiff.
23 Accordingly, punitive damages should be awarded against R. Scott Jones, Grant
24 Nugent, and Does 11 through 20.

TENTH CAUSE OF ACTION

Defendant Sacramento County

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

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105. Plaintiff hereby incorporates by reference paragraphs 1 through 54, inclusive, as though set forth fully herein.

106. Defendant Sacramento County, which operates the SCSD and the Correctional Health Services Division and is the employer of Defendants Dominguez, Yang, Meier, Grout, and Does 1-10, has full authority to train, supervise, and direct all of the actions of each of these defendants. Defendants Dominguez, Yang, Meier, Grout, and Does 1 through 10 in their official capacities and in the performance of their duties engaged in the acts and omissions alleged in paragraphs 15-48.

107. Under California Government Code §815.2(a), Sacramento 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 Fifth through Ninth Causes of Action.

108. As a direct and proximate result of the wrongful acts and omissions of omissions of Defendants Dominguez, Yang, Meier, Grout, R. Scott Jones, Grant Nugent, and Does 1 through 20, for which Defendant Sacramento County is liable under the doctrine of *respondeat superior* and/or California Government Code §815.6, Plaintiff has sustained general damages of an estimated \$3,000,000, 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.

ELEVENTH CAUSE OF ACTION

Defendant Sacramento County

Liability for Failure to Have Adequate Policies & Practices, Training, Supervision, or Enforcement of Timely and Effective Medical Care for Inmates

109. Plaintiff hereby incorporates by reference paragraphs 1 through 54, inclusive, as though set forth fully herein.

110. Sacramento County has failed to adequately establish policies and procedures (“PPs”) regarding the timely and effective provision of medical services for inmates that are adequate for protecting the right of inmates to medical care.

111. Sacramento County has failed to adequately train its personnel regarding the timely and effective provision of medical care for inmates.

112. Sacramento County has failed to adequately monitor or enforce policies and procedures for the timely and effective provision of medical care for inmates.

113. Sacramento County has failed to adequately supervise its personnel regarding the timely and effective provision of medical care for inmates.

114. While Sacramento County may have PPs regarding the timely and effective provision of medical care for inmates, Sacramento County has a *de facto* practice of not providing timely and effective medical care for inmates to minimize the cost of inmate medical care.

115. It was known and/or obvious to Sacramento County that the acts and omissions described in paragraphs 110-114 would be likely to cause serious violation of the rights of inmates to timely and effective medical care.

116. The acts and omissions in paragraphs 110-114 continued for at least a year prior to the institution of this action and Plaintiff is informed and believes, and on that basis alleges, that these acts and omissions continue until the present time. As a consequence, Sacramento County’s acts and omissions in paragraphs 110-114 constitute deliberate indifference to, and a callous disregard for, the constitutional

1 rights of inmates in Sacramento County jails.

2 117. As a direct and proximate result of the wrongful acts and omissions of
3 Sacramento County as set forth above, Plaintiff has sustained general damages of
4 an estimated \$3,000,000, according to proof, including, but not limited to: (a) the
5 serious physical pain and suffering from the daily repeated injury to his body; (b)
6 the severe emotional and mental distress caused by the daily infliction of physical
7 and psychological pain, including feelings of helplessness, anxiety, humiliation, and
8 the loss of a sense of security, dignity, and pride; (c) the cost of medical treatment;
9 (d) the cost of emotional and psychological therapy; and (e) the loss of future
10 economic damages to permanent physical disability.

11 **TWELFTH CAUSE OF ACTION**

12 **Defendant Sacramento County, the SCSO**
13 **Correctional Health Services Division, Grant Nugent, and Does 21-30**

14 **Medical Malpractice**

15 118. Plaintiff hereby incorporates by reference paragraphs 1 through 54, inclusive,
16 as though set forth fully herein.

17 119. Defendant Sacramento County operates the SCSD and its Correctional
18 Health Services Division. Defendant Grant Nugent was the director of the
19 Correctional Health Services Division at the time of the events alleged herein. Does
20 21-30 are employees and/or contractors that provide medical services for the
21 Correctional Health Services Division.

22 120. Defendant Sacramento County, Grant Nugent, and Does 21-30 failed to
23 comply with professional standards in the treatment of Plaintiff's Injuries by failing
24 to: (a) send Plaintiff for surgery on his left foot to properly reconstruct the
25 calcaneal bone; (b) provide Plaintiff with the means to not bear weight on his feet
26 while they healed (e.g., a wheelchair); and (c) provide Plaintiff with shower and
27 bathroom facilities that were capable of assisting Plaintiff with necessary hygiene

1 and sanitation without causing Plaintiff unnecessary pain and unnecessary weight
2 bearing on his feet.

3 121. As a direct and proximate cause of this negligence and failure to meet
4 applicable professional standards of care, Plaintiff suffered additional injury to his
5 calcaneal bone in his left foot. This injury will likely result in serious permanent
6 disability to Plaintiff.

7 122. The foregoing acts and omissions of Does 21 through 30 were committed with
8 unbridled malice that was despicable and done with full knowledge of the physical
9 and mental pain and suffering to Plaintiff. As a result, punitive damages should be
10 awarded against Does 21-30.

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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 1-2, 5-6;
3. For reasonable attorney's fees and costs pursuant to 42 U.S.C. §1988 in Counts 1-4;
4. For reasonable attorney's fees and costs pursuant to California Civil Code §51 and §52 in Counts 8-9;
5. For treble damages (3x consequential) in Counts 8-9;
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.

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Dated: December 5, 2017

Respectfully,

By: /s/ Patrick H. Dwyer
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