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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

MAY 05 2006

ALAN SLATER, Clerk of the Court

BY: ENRIQUE VELOZ, DEPUTY

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF ORANGE**

10 **06CC05833**

11 JOHN DOE,

12 Plaintiff,

13 vs.

14 COUNTY OF ORANGE; ORANGE
15 COUNTY SHERIFF'S DEPARTMENT;
16 SHERIFF MICHAEL S. CARONA;
17 ORANGE COUNTY HEALTH CARE
18 AGENCY; and DOES 1 through 25,
19 inclusive,

20 Defendants.

Case No.

**COMPLAINT FOR DAMAGES
FOR:**

- 21 (1) **DELIBERATE INDIFFERENCE**
- 22 (2) **INTENTIONAL INFLICTION**
- 23 **OF EMOTIONAL DISTRESS**
- 24 (3) **NEGLIGENCE**

25 GENERAL CIVIL CASE
26 AMOUNT EXCEEDS \$25,000

27 **JUDGE ANDREW P. BANKS**
28 **DEPT. C6**

COME NOW Plaintiff JOHN DOE individually, and alleges as follows:

JURISDICTION

1. Plaintiff, JOHN DOE, is an individual, and except as otherwise indicated, at all times herein mentioned was a resident of the County of Orange, State of California.

2. JOHN DOE is informed and believes and thereon alleges that Defendants, COUNTY

1 OF ORANGE, ("COUNTY") and ORANGE COUNTY SHERIFF'S DEPARTMENT
2 ("DEPARTMENT") are and were at all times herein mentioned political subdivisions and/or public
3 entities of the State of California, created, duly organized, and existing under the laws of the State
4 of California.

5 3. JOHN DOE is informed and believes and thereon alleges that Defendant, SHERIFF
6 MICHAEL S. CARONA ("SHERIFF CARONA") is and at all times herein mentioned was
7 employed by COUNTY as Sheriff. JOHN DOE is informed and believes, and thereon alleges, that
8 at all relevant times herein mentioned, SHERIFF CARONA was acting under color of law and in
9 the course and scope of his employment for Defendant COUNTY as Sheriff. Defendant, SHERIFF
10 CARONA is sued individually and in his official capacity.

11 4. JOHN DOE is further informed and believes and thereon alleges that Defendant,
12 ORANGE COUNTY HEALTH CARE AGENCY ("OCHCA") is and at all times herein mentioned
13 was a political subdivision and/or public entity of the State of California, created, duly organized,
14 and existing under the laws of the State of California. OCHCA provides essential medical services
15 to persons for whom the COUNTY has legal responsibility including those in the Orange County
16 Jail, by and through Correctional Medical Services, a division of OCHCA.

17 5. JOHN DOE is ignorant of the true names and capacities of Defendants sued herein as
18 DOES 1 through 25, and therefore shall sue these Defendants by such fictitious names. JOHN DOE
19 is informed and believes, and therefore alleges, that each of the Defendants designated as a DOE
20 is legally responsible in some manner for the circumstances alleged in this Complaint, and caused
21 JOHN DOE to suffer damages as alleged herein. JOHN DOE will amend this Complaint to allege
22 their true names and capacities when ascertained.

23 6. JOHN DOE is informed and believes and thereon alleges that at all times herein
24 mentioned, Defendants, and each of them, including all Defendants sued under fictitious names,
25 were acting within the course and scope of their authority as agents, representatives, subcontractors,
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1 partners, alter egos and/or employees for Defendant COUNTY, and were therefore looked upon as
2 holding a superior position of authority and trust by JOHN DOE. These unidentified DOES are
3 sued individually and in their official capacities as employees, agents, representatives,
4 subcontractors, partners, and/or alter egos with the permission and consent of each other Defendant,
5 and each other Defendant having ratified the acts of the other Defendants. Therefore, Defendants,
6 and each of them, are liable to JOHN DOE for the acts of each of the individually named
7 Defendants.

8 7. Each reference in this Complaint to a specifically named Defendant refers to all
9 Defendants sued under fictitious names.

10 8. All events referred to in the allegations contained herein occurred within the boundaries
11 of the County of Orange, State of California, except as otherwise indicated.

12 9. The allegations of this Complaint stated on information and belief are likely to have
13 evidentiary support after a reasonable opportunity for further investigation and discovery.

14 10. Based on the foregoing, jurisdiction over this action lies with this Court.

15 **FIRST CAUSE OF ACTION**

16 **Refusal to Provide Medical Treatment - Deliberate Indifference**

17 **(Against all Defendants)**

18 11. JOHN DOE incorporates herein by reference each and every allegation in paragraphs
19 1 through 10 of this Complaint, as though set forth in full herein with the same force and effect.

20 12. In or around 1991, JOHN DOE was diagnosed with Gender Identity Disorder. Gender
21 Identity Disorder is categorized as a medical condition by the American Psychiatric Association's
22 *Diagnostic and Statistical Manual of Mental Disorders*. (DSM-IV 532 (4th ed. 1994).) Prevailing
23 medical standards of care dictate that hormone therapy is a correct and proper component of
24 treatment and in many cases is medically necessary as treatment for persons with Gender Identity
25 Disorder.

1 13. In or around 1992, because of the diagnosis, JOHN DOE legally and medically
2 transitioned from female to male. JOHN DOE began wearing men's clothing and began a medically
3 prescribed regimen of male hormones. JOHN DOE has undergone testosterone therapy for more
4 than ten years which includes prescription testosterone treatment once every fourteen days. JOHN
5 DOE underwent chest reconstruction surgery in 1992. As a result of the surgery and testosterone
6 treatment, he has a flat male chest, developed facial, body and chest hair, gained body weight in the
7 form of muscle mass, and his voice deepened.

8 14. JOHN DOE was incarcerated on or around August 20, 2004 and continuing through
9 October 26, 2004, at the Orange County Jail Intake and Release Center ("IRC"), a facility operated
10 by the DEPARTMENT, located at 550 North Flower Street, Santa Ana, California.

11 15. Prior to his admittance his last injection was on or around August 6, 2004. JOHN DOE
12 was due for his next injection on or around August 20, 2004. Upon his admittance to IRC, JOHN
13 DOE disclosed to Defendants that he required prescription testosterone injections every two weeks.
14 Between August 20, 2004 and October 26, 2004, JOHN DOE was explicitly denied access to his
15 medically prescribed testosterone treatment. In or around August 21, 2004, JOHN DOE made a
16 verbal request for treatment. Defendants denied treatment and JOHN DOE made six additional
17 written demands for medical treatment between August 21, 2004 and October 26, 2004.

18 16. JOHN DOE'S primary care physician, Richard Horowitz, M.D., informed the
19 Correctional Medical Services Medical Director that JOHN DOE'S prescribed testosterone
20 treatment was medically necessary for JOHN DOE'S health and well-being. Dr. Horowitz informed
21 the Medical Director of the negative health consequences associated with the failure to provide
22 treatment to JOHN DOE during his incarceration.

23 17. JOHN DOE is informed and believes that Attorney Ed Isler, contacted the
24 DEPARTMENT and the Medical Director on JOHN DOE'S behalf on or around September 1, 2004
25 to request treatment. The Medical Director told Attorney Isler that JOHN DOE'S testosterone
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1 to change out his blues while wearing a pink sleeveless garment in front of three pods of inmates.
2 One deputy even commented, "here comes the parade." On occasions when an inmate referred to
3 JOHN DOE as "he" or "him" the inmate was reprimanded in JOHN DOE'S presence and told that
4 JOHN DOE is female. Deputies routinely stopped at JOHN DOE'S cell and laughed at him, called
5 him "a freak," "a sicko" and "that thing." Deputies threatened to place JOHN DOE with the male
6 prisoners so that he could see that he is "really a woman." During the transfer of JOHN DOE for
7 a court appearance he was placed in a cell without bathroom facilities. After remaining in the cell
8 for six hours JOHN DOE requested the use of a bathroom. At which time one deputy said to the
9 other, "it says it needs to use the head." To which the other deputy laughed and replied "nope."
10 JOHN DOE was forced to endure an additional three hours without bathroom facilities, totaling
11 nine hours without access to a bathroom.

12 21. JOHN DOE was transferred to Valley State Prison - Chowchilla ("CHOWCHILLA")
13 on or around October 26, 2004. CHOWCHILLA is located in the County of Madera, California.
14 JOHN DOE received his medically prescribed hormone treatment shortly after transferring to
15 CHOWCHILLA. The injections were continued by CHOWCHILLA until JOHN DOE was released
16 on September 30, 2005.

17 22. JOHN DOE continues to experience physical and mental health problems due to the
18 deprivation of hormone treatment and harassment by Defendants. JOHN DOE was prescribed and
19 given blood pressure medication by the presiding doctor at CHOWCHILLA. JOHN DOE remains
20 on prescription blood pressure medication to this day. JOHN DOE continues to have black spots
21 in his vision, suffers from sharp pains in his chest and severe muscle cramping. JOHN DOE is
22 afraid of the future effects that the denial of the testosterone treatment will have on his body.

23 23. On or around April 18, 2005, JOHN DOE filed a formal complaint, "Claim for Money
24 or Damages", with the COUNTY regarding Defendants' deliberate indifference to provide necessary
25 medical care during his incarceration at IRC and the health consequences associated therewith. The
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1 COUNTY rejected JOHN DOE'S claim on November 7, 2005. (A true and correct copy of the
2 Claim for Money or Damages is attached hereto as Exhibit A.)

3 24. As a direct, legal, and proximate result of the conduct of Defendants', and each of them,
4 as aforesaid, JOHN DOE suffered severe, serious, and permanent injuries to his person, including
5 physical injury and severe emotional distress, fear, terror, anxiety, humiliation, embarrassment, and
6 loss of his sense of security and dignity, all to his damage in a sum to be shown according to proof
7 and within the jurisdiction of the Superior Court.

8 25. These acts of the Defendants, and each of them, showed a complete and total disregard
9 for the standards of their profession and the well-being of JOHN DOE, and served no legitimate
10 penological purpose, were merely cruel, mean spirited, malicious, wanton, and oppressive. JOHN
11 DOE is therefore entitled to an award of punitive damages against them.

12 **SECOND CAUSE OF ACTION**

13 **Intentional Infliction of Emotional Distress**

14 **(Against all Defendants)**

15 26. JOHN DOE incorporates herein by reference each and every allegation in paragraphs
16 1 through 25 of this Complaint, as though set forth in full herein with the same force and effect.

17 27. Because JOHN DOE was an inmate in the custody of the COUNTY, the
18 DEPARTMENT, SHERIFF CARONA, OCHCA, and DOES 1 through 25, and each of them, had
19 a duty under state regulations to provide him necessary medical care and safety. Without limiting
20 the generality of the foregoing, Defendants, and each of them, had a duty to, among other things:
21 provide humane treatment; and provide necessary medical treatment.

22 28. During the period of his detention from August 20, 2004, and up to and including
23 October 26, 2004, Defendants, and each of them, breached their duties to JOHN DOE. These
24 breaches were intentional and in reckless disregard for the probability that severe injury would
25 result from their failure to adhere to their duties. Defendants knew or should have known that there
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1 was a probability that injury would result from the failure to adhere to their duties. In particular,
2 and without limiting the generality of the foregoing, Defendants, and each of them, intentionally,
3 maliciously, and with deliberate indifference to JOHN DOE'S health and safety failed to, among
4 other things:

- 5 a. follow, implement, and/or adhere to the medically necessary treatment prescribed by
- 6 JOHN DOE'S physician;
- 7 b. accord to JOHN DOE individual dignity and respect, and instead subjected him to
- 8 abuse and harassment;
- 9 c. properly and accurately administer prescribed hormone treatments; and,
- 10 d. diagnose and treat JOHN DOE'S symptoms which resulted from Defendants' refusal
- 11 to administer prescribed hormone treatments.

12 29. The conduct of Defendants, and each of them, was outrageous and beyond the bounds
13 of decency such that no reasonable person could be expected to endure it. JOHN DOE was forced
14 to endure physical injury and pain as well as severe emotional and mental distress, verbal
15 harassment, fear, terror, anxiety, humiliation, embarrassment, and loss of his sense of security and
16 dignity.

17 30. At all times mentioned herein, Defendants and each of them knew that JOHN DOE
18 was at risk when they failed to meet their duty. Defendants knew that their failure to comply with
19 such duties, would result in injury to JOHN DOE. In breaching their duties to JOHN DOE,
20 Defendants, and each of them, acted maliciously, intentionally and with a conscious disregard of
21 the consequences.

22 31. By reason of the foregoing, JOHN DOE was required to employ the services of
23 physicians and other professional services and was compelled to incur expenses for medications and
24 other medical supplies and services.

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1 32. As a direct and proximate result of the intentional, malicious, cruel, harmful, unlawful
2 and offensive acts of Defendants, as aforesaid, JOHN DOE sustained severe and serious injury to
3 his person, including but not limited to severe emotional distress, all to JOHN DOE'S damage in
4 a sum within the jurisdiction of this Court and to be shown according to proof.

5 33. By reason of the foregoing, Defendants have acted with malice, fraud and oppression,
6 and an award of punitive damages in a sum according to proof at trial is justified, warranted and
7 appropriate.

8 **THIRD CAUSE OF ACTION**

9 **Negligence**

10 **(Against all Defendants)**

11 34. JOHN DOE incorporates herein by reference each and every allegation in paragraphs
12 1 through 33 of this Complaint, as though set forth in full herein with the same force and effect.

13 35. At all relevant times, Defendants, and each of them acted under the color of law and
14 within their official capacities as employees, agents, representatives, subcontractors, partners, and/or
15 alter egos of Defendants, COUNTY, DEPARTMENT, and OCHCA and were therefore looked
16 upon as holding a superior position of trust and authority by JOHN DOE. Defendants owed a duty
17 to JOHN DOE at all relevant times to exercise reasonable care and such other care as required by
18 law in a way which would not cause harm to JOHN DOE while under Defendants' custody and
19 control.

20 36. During JOHN DOE'S incarceration, Defendants failed to exercise reasonable care
21 expected of a law enforcement agency and/or official sworn to carry out the laws in the COUNTY,
22 resulting in, among other things, the abuse, torment, harassment and deliberate indifference to the
23 medical needs of JOHN DOE.

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1 37. Defendants breached the duty owed to JOHN DOE by deliberately failing to follow,
2 implement, and/or adhere to JOHN DOE'S physician's orders; failing to accord to JOHN DOE'S
3 individual dignity and respect; subjecting JOHN DOE to continued and ongoing verbal harassment
4 and mistreatment; failing to properly and accurately administer proper medical treatment to JOHN
5 DOE; and, failing to diagnose and treat JOHN DOE'S symptoms resulting from Defendants' refusal
6 to administer proper medical care to JOHN DOE.

7 38. Defendants knew or should have known that their failure to exercise reasonable care
8 would and did cause physical, mental and emotional harm to JOHN DOE.

9 39. As a direct and proximate result of Defendants, and each of them, breaching their duty
10 of care, JOHN DOE incurred financial damages and severe physical, mental and emotional harm.
11 JOHN DOE has been damaged in an amount to be proven at trial.

12 40. The damages suffered by JOHN DOE were solely due to the conduct of Defendants,
13 and each of them, acting individually and/or as the agent, and employee of each of the other
14 Defendants, and acting within the course and scope of that agency and employment.

15 41. JOHN DOE is informed and believes that at all relevant times, SHERIFF CARONA,
16 COUNTY, DEPARTMENT, and OCHCA were negligent, careless, reckless and unlawful in the
17 manner in which they selected, hired, trained and supervised the Medical Director, and DOES 1
18 through 25, so as to proximately cause JOHN DOE'S injuries and damages set forth below.
19 SHERIFF CARONA, COUNTY, DEPARTMENT, and OCHCA were unfit and incapable of
20 providing supervision of each other Defendant, DOES 1-25, and the Medical Director, thereby
21 proximately causing the injuries and damages described below.

22 42. These acts of the Defendants, and each of them, showed a complete and total disregard
23 for the standards of their profession and the well-being of JOHN DOE, and these acts caused JOHN
24 DOE irreparable physical, mental and emotional distress and harm.

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1 43. As a direct, legal and proximate result of the negligence of Defendants, and each of
2 them, as aforesaid, JOHN DOE, has sustained severe, serious, and permanent injuries to his person,
3 all to his damage in a sum to be shown according to proof and within the jurisdiction of the
4 Superior Court.

5 44. As a further direct, legal and proximate result of the aforesaid negligence of
6 Defendants, and each of them, JOHN DOE was compelled to and did employ the services of
7 physicians, nurses, and the like, to care for and treat him, and did incur medical, professional, and
8 incidental expenses, and JOHN DOE is informed and believes, and upon such information and
9 belief alleges, that he will necessarily by reason of his injuries, incur additional like expenses for
10 an indefinite period of time in the future, all to his damage in a sum to be shown according to proof.

11
12 WHEREFORE, JOHN DOE prays for judgment as follows:

13 **ON THE FIRST CAUSE OF ACTION (Deliberate Indifference)**

- 14 1. For general damages in a sum according to proof;
15 2. For special damages in a sum to be proven at trial;
16 3. For punitive damages in an amount appropriate to punish Defendants, and to deter
17 others from engaging in similar willful misconduct; and,
18 4. For such other and further relief as the Court may deem proper.

19 **ON THE SECOND CAUSE OF ACTION (Intentional Infliction of Emotional Distress)**

- 20 1. For general damages in a sum according to proof;
21 2. For special damages in a sum to be proven at trial;
22 3. For punitive damages in an amount appropriate to punish Defendants, and to deter
23 others from engaging in similar willful misconduct; and,
24 4. For such other and further relief as the Court may deem proper.

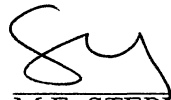

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1 **ON THE THIRD CAUSE OF ACTION (Negligence)**

- 2 1. For general damages in a sum according to proof;
- 3 2. For special damages in a sum to be proven at trial and future damages; and,
- 4 3. For such other and further relief as the Court may deem proper
- 5

6 Dated: May 4, 2006

STOCK STEPHENS, LLP

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9 _____
10 M.E. STEPHENS, ESQ.
11 SHELBY L. STUNTZ, ESQ.
12 ATTORNEYS FOR PLAINTIFF,
13 JOHN DOE