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12 **UNITED STATES DISTRICT COURT**
13 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

14

15 JAMEELAH MEDINA,
16 Plaintiff,

17 v.

18 COUNTY OF SAN BERNARDINO,
19 a political subdivision; GARY
20 PENROD, in his individual and
21 official capacities; and DOES 1
22 through 10, in their individual and
23 official capacities,

24 Defendants.

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CASE NO. EDCV07-1600 VAP (OPx)
FIRST AMENDED
COMPLAINT FOR DAMAGES

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1 Plaintiff JAMEELAH MEDINA alleges as follows:

2 **JURISDICTION AND VENUE**

3 1. This action arises under 42 U.S.C. § 1983, the laws and Constitution of
4 the United States, and the laws and Constitution of the State of California. This
5 Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1343, 42 U.S.C.
6 § 2000cc-2(a), and directly under the Constitution. This Court has supplemental
7 jurisdiction under 28 U.S.C. § 1367(a).

8 2. Venue is proper under 28 U.S.C. § 1391 because a substantial part of
9 the events or omissions giving rise to the claims occurred in this district.

10 **PARTIES**

11 **Plaintiff**

12 3. Plaintiff Jameelah Medina is a 29-year old woman who resides in San
13 Bernardino County with her husband. Ms. Medina works as a business trainer and
14 is a graduate student pursuing her PhD in education at Claremont Graduate
15 University, where she obtained her Master's degree.

16 4. Ms. Medina is a practicing Muslim and is and has been an adherent of
17 the Muslim religion since birth. In accordance with her religious beliefs and as a
18 part of the exercise of her religion, Ms. Medina wears a headscarf covering her hair,
19 ears, neck, and part of her chest when she is in public and when she is in the
20 presence of men who are not members of her immediate family.

21 **Defendants**

22 5. Defendant County of San Bernardino ("San Bernardino County") is a
23 political subdivision, organized under the laws of the State of California. At all
24 times relevant to this Complaint, Defendant San Bernardino County employed
25 Defendant Gary Penrod and unidentified defendants designated herein as Does 1-
26 10. The San Bernardino County Sheriff's Department ("SBSD") is a department of
27 San Bernardino County. On information and belief, the SBSB receives federal
28 financial assistance as well as financial assistance from the State of California.

1 6. Defendant Doe 1 was the supervising officer of the West Valley
2 Detention Center of the SBSB on December 7, 2005. In this capacity, he
3 supervised staff and operations at one of the largest county jails in California, with
4 a capacity of more than 3000 inmates. The web site of the West Valley Detention
5 Center boasts that inmates receive services including “religious services.” See
6 <http://www.co.san-bernardino.ca.us/sheriff/detentions/WVDC.asp>. Because the
7 true name of Defendant Doe 1 is unknown to Plaintiff, Plaintiff sues that Defendant
8 through a fictitious name. Plaintiff will seek leave to amend this Complaint, if
9 necessary, to reflect Defendant Doe 1’s true name once it has been ascertained.
10 Prior to and on December 7, 2005, Defendant Doe 1 acted within the scope of his
11 employment and under color of law. He is sued in both his individual and official
12 capacities.

13 7. Defendant Gary Penrod is the Sheriff-Coroner of San Bernardino
14 County. As such, he has overall supervisory responsibility for the patrol stations
15 and jails of San Bernardino County, including the West Valley Detention Center.
16 At all times relevant to this Complaint, he was acting within the scope of his
17 employment and under color of law. He is sued in both his individual and official
18 capacities.

19 8. Defendants Does 2 through 10 are persons who engaged in, were
20 aware of, participated in, and/or directed the acts alleged herein. Because the true
21 names and capacities of Defendants sued as Does 2 though 10 are unknown to
22 Plaintiff, Plaintiff sues those Defendants through fictitious names. Plaintiff will
23 seek leave to amend this Complaint, if necessary, to reflect their true names once
24 they have been ascertained. At all times relevant to this Complaint, Defendants
25 Does 2 through 10 were acting within the scope of their employment and under
26 color of law. Does 2 through 10 are sued in both their individual and official
27 capacities.

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1 and when she is at home, if she is in the presence of men who are not part of her
2 immediate family.

3 13. Ms. Medina has studied religious texts, thought deeply, and prayed
4 about her practice of covering her head and hair. To Ms. Medina, wearing a
5 headscarf is a reminder of her faith, of the importance of modesty in her religion,
6 and of her religious obligations, as well as a symbol of her own control over who
7 may see the more intimate parts of her body.

8 14. For Ms. Medina, to have her hair and neck uncovered in public –
9 particularly in the presence of men who are not part of her immediate family – is a
10 serious breach of faith and religious practice, and a deeply humiliating, violating,
11 and defiling experience that substantially burdens her religious practice.

12 **Arrest and Car Ride to West Valley Detention Center**

13 15. On the morning of December 7, 2005, Jameelah Medina boarded the
14 San Bernardino Line Metrolink train at the Fontana Station on her way to work,
15 with the Cal State LA Station as her destination.

16 16. When the train in which Ms. Medina was riding reached the Claremont
17 Station, two uniformed officers, possibly employed by Metrolink, who were on the
18 train asked to see her train ticket. She gave them her ticket. The officers
19 determined that her ticket was not valid, and they told Ms. Medina that she would
20 have to get off at the next stop, the Pomona Station, where an Los Angeles County
21 Sheriff's Department ("LASD") officer would be waiting for her.

22 17. At the Pomona Station, the two officers escorted Ms. Medina to an
23 LASD deputy, whom Ms. Medina later learned was named Craig Roberts. Roberts
24 arrested Ms. Medina at approximately 6:15 a.m. He asked Ms. Medina a number of
25 questions about her Metrolink ticket, took her to his car, gave her a blank form, and
26 told her to write out a statement on that form regarding her ticket.

27 18. Ms. Medina was never prosecuted for any crime or misdemeanor in
28 connection with her Metrolink ticket.

1 19. Roberts handcuffed Ms. Medina, made her sit in the back seat of his
2 marked police car, and drove away. As Roberts drove, he began asking Ms.
3 Medina questions. He asked her why she covered her hair. Ms. Medina explained
4 that she was a Muslim and preserved modesty in front of men. Roberts next asked
5 why Ms. Medina had chosen that “evil” religion. Ms. Medina answered that she
6 was born into the religion. Roberts asked whether Ms. Medina sympathized with
7 suicide bombers, and she answered that she did not. Ms. Medina attempted to
8 explain that not all Muslims are the same, just as not all Christians are the same.
9 Roberts asked Ms. Medina whether she sympathized with Saddam Hussein, and she
10 said that she did not. Ms. Medina felt uncomfortable and vulnerable during
11 Roberts’ questioning, but she answered his questions in order to be cooperative.

12 20. Although Roberts is an LASD deputy, Roberts drove Ms. Medina to a
13 detention center in San Bernardino County, telling her that he did not want her in
14 his car all the way to Los Angeles. He spoke with someone on the telephone to get
15 directions to the West Valley Detention Center.

16 21. As he drove, Roberts made several offensive and bigoted statements
17 about Ms. Medina’s religion. He accused Ms. Medina of being a terrorist and of
18 supporting terrorism. He stated that Muslims are evil, that their religion is evil, that
19 they spread evil, and that the United States was in Iraq at God’s direction to squash
20 evil. Roberts had difficulty keeping his composure and, at one point, he removed
21 his sunglasses and glared at Ms. Medina in the rearview mirror while yelling
22 accusations at her.

23 22. While Roberts accused Ms. Medina in increasingly angry tones, Ms.
24 Medina did not respond. She remained handcuffed in the back of the patrol car.
25 She felt intimidated and shocked, and she feared that Roberts might do something
26 to harm her physically.

27 **Defendants’ Prohibition on Plaintiff’s Wearing of a Religious Headcovering**

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1 23. Once at the West Valley Detention Center, a large jail in San
2 Bernardino County, Roberts left Ms. Medina with a female officer and stood about
3 ten feet away from her, apparently filling out paperwork, with his back to Ms.
4 Medina. The female officer told Ms. Medina to take various items off, including
5 her jewelry, and she inventoried those items. The officer then told Ms. Medina to
6 take off her headscarf. Ms. Medina responded that she could not take it off and that
7 she wore it for religious reasons. In response, the female officer hesitated for a
8 moment but then told Ms. Medina again to take off the headscarf. Ms. Medina
9 repeated her response.

10 24. Roberts turned around to face Ms. Medina and said, “It’s not religious.
11 It’s just a fashion statement.” This statement surprised Ms. Medina, because she
12 had explained to Roberts in the car that wearing the headscarf was a religious
13 practice. The female officer told Ms. Medina that she did not care what worked
14 “outside” and that Ms. Medina must take off the headscarf “in here.” The officer
15 told Ms. Medina that “in here,” she must do as she was told, and the officer
16 threatened that she could make sure that Ms. Medina was not processed or
17 fingerprinted and that, as a result, Ms. Medina would not be eligible for bail and
18 would not be released the same day.

19 25. In response, Ms. Medina allowed the officer to remove her headscarf.
20 Ms. Medina undid the pins holding the scarf in place and let the ends of the scarf
21 hang down. The female officer removed the scarf from Ms. Medina’s head. As she
22 did so, Roberts made a point of staring at her. Ms. Medina felt violated, exposed,
23 and humiliated because she was forced to remove her headscarf in the presence of a
24 man, in violation of her religious beliefs and practices.

25 26. Ms. Medina was not given any explanation by the officer, or by
26 anyone else thereafter, for why she was not permitted to wear her headscarf.

27 27. The female officer required Ms. Medina to remove the hair scrunchie
28 she had been wearing under her headscarf, and she told Ms. Medina to shake her

1 hair. The officer then required Ms. Medina to stand facing a wall, and the officer
2 searched Ms. Medina in a pat-down. Ms. Medina hoped that she would get the
3 headscarf back once the search was over, but the officer did not return her scarf to
4 her. No contraband or weapon was found under the headscarf or anywhere else on
5 Ms. Medina.

6 28. The female officer finished searching Ms. Medina's person. She then
7 took Ms. Medina to a small holding area. Within a short time, the same officer
8 called Ms. Medina to be fingerprinted and then sent her to a holding area with the
9 other women. While in the holding cell, Ms. Medina removed a thermal
10 undershirt she was wearing and put it on her head in an attempt to cover herself.
11 Ms. Medina asked a different female officer if she could have her scarf back, and
12 that female officer returned it to her. When Ms. Medina received her scarf back,
13 she put it on her head right away and tied it at the chin.

14 29. Later in the day, officers lined up the female prisoners, including Ms.
15 Medina, to receive orange clothes. The female officer who had taken off Ms.
16 Medina's headscarf saw that Ms. Medina was again wearing her headscarf. She
17 told Ms. Medina to take it off, and Ms. Medina complied and gave the headscarf
18 back to the female officer, who took it away.

19 30. Ms. Medina then attempted to put the thermal undershirt on her head
20 again, but the officer told her that she was not allowed to put anything on her head.
21 Ms. Medina saw another inmate wearing a ponytail scrunchie, and no one required
22 that inmate to remove her scrunchie.

23 31. A male officer issued the women their prison clothes. He saw Ms.
24 Medina without her headscarf on. Again, Ms. Medina felt violated. Ms. Medina
25 and the others were sent eventually to cells, where she stayed until she was
26 released.

27 32. Ms. Medina believes that, at least, two or three male officers, including
28 Roberts, saw her exposed without her headscarf during the course of that day. Even

1 when Ms. Medina was sitting in a cell with only other women, she heard men's
2 voices and feared that more men saw her uncovered.

3 33. Later in the day, Ms. Medina received her headscarf and other personal
4 items and was released in the early evening after her family posted bond.

5 34. In the aftermath of the incident, Ms. Medina remained distressed by
6 what had happened, including being forced to remove her headscarf. She cried a
7 great deal and experienced humiliation, a sense of having had both her religious
8 beliefs and personal integrity violated, and shame. She felt that the male officers
9 had seen parts of her body that they should not have seen, according to her religious
10 beliefs.

11 **DEFENDANTS' CULPABILITY**

12 35. On information and belief, Defendants San Bernardino County and its
13 employees and agents prohibited Plaintiff from wearing her religious headcovering
14 pursuant to a San Bernardino County custom, practice, or official policy.

15 Alternatively, based on information and belief, Defendants San Bernardino County
16 and its employees and agents prohibited Plaintiff from wearing her religious
17 headcovering pursuant to a custom, practice, or official policy implemented by the
18 SBSB, Defendant Doe 1 (the person who supervised the West Valley Detention
19 Center on December 7, 2005), Defendant Penrod, or other officers employed by
20 San Bernardino County and/or the SBSB, which was ratified by San Bernardino
21 County or which San Bernardino County failed to address.

22 36. Specifically, the SBSB has informed Plaintiff that it is the practice in
23 "all Type I and Type II jails managed by the San Bernardino County Sheriff's
24 Department" to require all inmates "to remove any headcovering when they are
25 searched during the jail intake process," and to receive this headcovering back,
26 whether "religious or otherwise," only upon "that individual's release from
27 custody." No exception or accommodation is made for religious headcoverings.
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1 37. In contrast to the SBSB policy, custom, or practice prohibiting the use
2 of religious headcovering, the Federal Bureau of Prisons has enacted a policy
3 regarding “religious headwear” providing that “[s]carves and headwraps (hijabs)
4 are appropriate for female inmates” U.S. Dep’t of Justice, Federal Bureau of
5 Prisons, Program Statement re: Religious Beliefs and Practices (Dec. 31, 2004),
6 available at http://www.bop.gov/policy/progstat/5360_009.pdf (last visited
7 December 5, 2007). The federal policy authorizes female Muslim inmates to wear
8 a “hijab,” and it states that such “[r]eligious headwear is worn throughout the
9 institution.” *Id.* The policy is intended to protect “the religious rights of inmates of
10 all faiths” while maintaining “the security and orderly running of the institution.”
11 *Id.*

12 38. In contrast to the policy, custom, or practice prohibiting the use of
13 religious headcovering in SBSB jails including the West Valley Detention Center,
14 other States have, like the Federal Bureau of Prisons, enacted policies regarding
15 religious headwear. The Kentucky Department of Corrections, for example,
16 permits “[s]carves and head wraps to be authorized for female inmates who have
17 identified a religious preference of Muslim, Jewish, Native American, Rastafarian,
18 and those of the orthodox Christian tradition.” This includes the “hijab.” Kentucky
19 Corrections, Policies and Procedures, Policy No. 23.1, at 5 (filed Jan. 9, 2007). The
20 New York Department of Correctional Services permits inmates to wear religious
21 headcoverings. Approved religious headcoverings include the “khimar” – a “cloth
22 headcovering (not to cover the face) for female members of the Islamic faith
23 measuring no more than 4 feet by 4 feet.” State of New York, Dep’t of
24 Correctional Servs., Directive No. 4202, at 6-7 (May 12, 2004, last revised April
25 24, 2007).

26 39. Defendants’ prohibition on Plaintiff’s use of a religious headcovering
27 pursuant to the above-described custom, practice, or policy violated Plaintiff’s right
28 to the free exercise of her religion, violated her rights under federal law, violated

1 her rights under the California Constitution and laws, and caused her extreme
2 mental and emotional distress.

3 40. On December 7, 2005, the day of the events that form the basis of this
4 Complaint, Defendants Doe 1 and Sheriff Penrod managed and supervised the
5 SBSB and the West Valley Detention Center of the SBSB and all officers working
6 therein, including the officers (Does 2 through 10) who had contact with Plaintiff at
7 the West Valley Detention Center on December 7, 2005.

8 41. On information and belief, Defendants Doe 1 and Penrod directed
9 officers, including Does 2 through 10, to prohibit the wearing of religious
10 headcoverings such as the hijab by inmates in the West Valley Detention Center of
11 the SBSB.

12 42. On information and belief, Defendants Doe 1 and Penrod, as
13 supervisors of the SBSB and the West Valley Detention Center of the SBSB, and
14 of all officers, including Does 2 through 10 working therein, were aware or should
15 have been aware that officers, including Does 2 through 10, engaged in the practice
16 of prohibiting the wearing of religious headcoverings such as a hijab, and that such
17 prohibition would violate Plaintiff's right to free exercise of religion, violate her
18 rights under federal and state law, and cause her extreme mental and emotional
19 distress. Defendants Doe 1 and Penrod, however, failed to prevent officers,
20 including Does 2 through 10, from prohibiting Jameelah Medina from wearing her
21 religious headscarf, either by training those officers, exercising their control over
22 those officers, or adequately supervising those officers. Nor did Defendants Doe 1
23 and Penrod, having knowledge of those officers' prohibition on the wearing of
24 religious headcoverings, remediate or redress those officers' conduct.

25 43. Defendants had no reasonable basis to believe that their actions in
26 prohibiting Ms. Medina from practicing her religion were lawful. The right that she
27 sought to exercise and the fact that Defendants' actions violated that right were
28 clearly established and well settled law as of December 7, 2005. In particular, as

1 detention officials, Defendants Doe 1 and Penrod should have known about the
2 clearly established law prohibiting Defendants from imposing a substantial burden
3 on religious exercise in the absence of a compelling government interest.
4 Accordingly, defendants Doe 1 and Penrod should have known that causing or
5 allowing subordinate officers, including Does 2 through 10, to prohibit Plaintiff
6 from wearing her religious headscarf would violate Jameelah Medina's right to the
7 free exercise of her religion, violate her rights under federal and state law, cause her
8 extreme mental and emotional distress, and would subject them to liability in their
9 individual and official capacities.

10 44. In failing to adequately train, control, and supervise its officers and in
11 failing to implement a policy, such as the federal Bureau of Prisons Policy, that
12 safeguards the religious rights of inmates such as Plaintiff, Defendants Doe 1 and
13 Penrod demonstrated reckless indifference to Plaintiff's constitutional rights.

14 45. In requiring Plaintiff to remove her headscarf after being told that
15 Plaintiff wore the scarf for religious reasons, defendant SBSO officers (Does 2
16 through 10) acted with reckless indifference to Plaintiff's constitutional rights.

17 **FIRST CLAIM**

18 Violation of Religious Land Use and Institutionalized Persons Act

19 42 U.S.C. §§ 2000cc et seq.

20 (Against All Defendants)

21 46. Plaintiff incorporates the above paragraphs as though fully set forth
22 here.

23 47. Under the Religious Land Use and Institutionalized Persons Act of
24 2000 ("RLUIPA"), 42 U.S.C. § 2000cc-1, "No government shall impose a
25 substantial burden on the religious exercise of a person residing in or confined to an
26 institution . . . even if the burden results from a rule of general applicability, unless
27 the government demonstrates that imposition of the burden on that person – (1) is in
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1 furtherance of a compelling governmental interest; and (2) is the least restrictive
2 means of furthering that compelling governmental interest.”

3 48. By their actions described above, including by requiring Plaintiff to
4 remove her religious headscarf and by prohibiting Plaintiff from covering her head
5 with her headscarf, including in the presence of male officers, Defendants imposed
6 a substantial burden on Plaintiff’s religious exercise in that they forced Plaintiff to
7 violate a fundamental tenet of her faith and a central component of her religious
8 practice. That substantial burden neither furthers a compelling governmental
9 interest nor is the least restrictive means of furthering a compelling governmental
10 interest.

11 49. Accordingly, Defendants have violated Plaintiff’s rights under
12 RLUIPA. As a result of Defendants’ conduct, Jameelah Medina suffered, and
13 continues to suffer, extreme shame, humiliation, mental anguish, and emotional
14 distress.

15 **SECOND CLAIM**

16 Violation of the First Amendment

17 42 U.S.C. § 1983

18 (Against All Defendants)

19 50. Plaintiff incorporates the above paragraphs as though fully set forth
20 here.

21 51. The First Amendment to the United States Constitution provides:
22 “Congress shall make no law respecting an establishment of religion, or prohibiting
23 the free exercise thereof. . . .”

24 52. By their actions described above, including by forcing Plaintiff to
25 remove her headscarf and by prohibiting Plaintiff from covering her head with her
26 headscarf, including in the presence of male officers, Defendants denied Plaintiff
27 the right to free exercise of religion, as guaranteed by the First Amendment to the
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1 Constitution of the United States and incorporated against the States through the
2 Fourteenth Amendment.

3 53. As a result of Defendants' conduct, Jameelah Medina suffered, and
4 continues to suffer, extreme humiliation, shame, mental anguish, and emotional
5 distress.

6 **THIRD CLAIM**

7 Violation of the California Constitution

8 Article I, Section 4

9 (Against All Defendants)

10 54. Plaintiff incorporates the above paragraphs as though fully set forth
11 here.

12 55. Article I, Section 4 of the California Constitution provides: "Free
13 exercise and enjoyment of religion without discrimination or preference are
14 guaranteed."

15 56. By their actions described above, including by forcing Plaintiff to
16 remove her religious headscarf and by prohibiting Plaintiff from covering her head
17 with her religious headscarf, including in the presence of male officers, Defendants
18 denied Plaintiff the right to the free exercise of religion and to the free exercise of
19 her religion without discrimination, as guaranteed by Article I, Section 4 of the
20 California Constitution.

21 57. As a result of Defendants' conduct, Jameelah Medina suffered, and
22 continues to suffer, extreme shame, humiliation, mental anguish, and emotional
23 distress.

24 **FOURTH CLAIM**

25 Violation of California Tom Bane Act

26 (Against All Defendants)

27 58. Plaintiff incorporates the above paragraphs as though fully set forth
28 here.

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Dated: January 11, 2008

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