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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

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KACI HICKOX

**VERIFIED
COMPLAINT**

DOCKET NO.

Plaintiff, **JURY TRIAL
DEMANDED**

-against-

ECF CASE

CHRISTOPHER JAMES CHRISTIE, MARY E.
O'DOWD, CHRISTOPHER RINN, GARY LUDWIG,
and JOHN DOE and JANE ROE, unidentified
employees of the New Jersey Department of Health,

Defendants.

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Plaintiff KACI HICKOX, a resident of Springfield, Oregon, may be contacted through her counsel, whose addresses are noted in this Complaint, so that her privacy is maintained. Defendant CHRISTOPHER JAMES CHRISTIE resides at 46 Corey Lane Mendham, New Jersey 07945. Defendant MARY E. O'DOWD resides at 240 Riverside Drive West, Princeton, New Jersey 08540-5432. The principal place of business for Defendants CHRISTOPHER RINN and GARY LUDWIG is at the New Jersey Department of Health, 369 South Warren Street, Trenton, New Jersey 08608-2308.

Plaintiff KACI HICKOX, by her attorneys, MCLAUGHLIN & STERN, LLP and AMERICAN CIVIL LIBERTIES UNION OF NEW JERSEY FOUNDATION, as and for her Complaint, alleges the following:

PRELIMINARY STATEMENT

1. This is a civil rights action to vindicate Plaintiff's rights under the Fourth and Fourteenth Amendments of the Constitution of the United States, and New Jersey common law. Defendants unlawfully and unreasonably detained, isolated and quarantined Plaintiff, without a valid medical or epidemiological basis, and without adequate legal recourse, pursuant to New Jersey's statewide Ebola Preparedness Plan, the Additional Screening Protocols for Ebola at John F. Kennedy International Airport in New York and at Newark Airport, and the Administrative Order Declaring Quarantine and Isolation of Kaci Hickox.

JURISDICTION & VENUE

2. This action is brought pursuant to 42 U.S.C §§ 1983 and 1988, and the Fourth and Fourteenth Amendments to the Constitution of the United States.

3. This Court has jurisdiction of the action pursuant to 28 U.S.C. §§ 1331, 1343(a)(3), and 1343(a)(4) as this is a civil action arising under the Constitution of the United States and the laws of the United States. This Court has jurisdiction over the supplemental claims arising under New Jersey state law pursuant to 28 U.S.C. § 1367(a).

4. This Court also has jurisdiction of the action pursuant to 28 U.S.C § 1332 because Plaintiff and Defendants are citizens of different states, namely Oregon and New Jersey, and the amount in controversy exceeds \$75,000.

5. Venue is proper for the United States District Court for the District of New Jersey pursuant to 28 U.S.C § 1391 (a), (b), and (c) because the claims arose in this district.

PARTIES

6. Plaintiff KACI HICKOX is a 34-years-old nurse duly licensed to practice in Oregon, where she now resides. She received her Master of Science in Nursing, as well as a Master in Public Health, from Johns Hopkins University.

Prior to that, in 2006, she earned a Diploma in Tropical Nursing from the London School of Hygiene and Tropical Medicine. After graduating from Johns Hopkins, Hickox worked for two years as an Epidemic Intelligence Service Fellow for the U.S. Centers for Disease Control and Prevention (“CDC”). Hickox’s work history also includes working as a Medical Team Leader and Nurse Manager for Médecins Sans Frontières (“MSF”) in Uganda, Nigeria, and Sudan, and as a Primary Health Care Manager for MSF in Myanmar. From September 23, 2014 to October 22, 2014, Hickox worked for MSF in Sierra Leone as Medical Team Leader at the Ebola Treatment Unit in Bo, Sierra Leone.

7. Defendant CHRISTOPHER JAMES CHRISTIE is the Governor of the State of New Jersey. The Governor’s office is located at the New Jersey State House, 125 West State Street, Trenton, NJ 08608. Defendant Christie is being sued in his individual capacity.

8. Defendant MARY E. O’DOWD was the Commissioner of the New Jersey Department of Health during the relevant time period. She is being sued in her individual capacity. Defendant O’Dowd resides at 240 Riverside Drive West, Princeton, NJ 08540-5432.

9. Defendant CHRISTOPHER RINN is the Assistant Commissioner of the Division of Public Health Infrastructure, Laboratories and Emergency Preparedness of the New Jersey Department of Health. He is being

sued in his individual capacity. The Department of Health is located at 369 South Warren Street, Trenton, NJ 08608-2308.

10. Defendant GARY LUDWIG is the Service Director of the Communicable Disease Service of the New Jersey Department of Health and is being sued in his individual capacity. The Department of Health is located at 369 South Warren Street, Trenton, NJ 08608-2308.

11. Defendants John Doe and Jane Roe et al., whose identities and number are presently unknown to Plaintiffs, are and were at all relevant times employees and/or agents of the New Jersey Department of Health and participated in the detention, isolation, and/or quarantine of Kaci Hickox. They are sued in their individual capacities.

12. At all relevant times Defendants Christopher James Christie, Mary O'Dowd, Christopher Rinn, Gary Ludwig, and John Doe and Jane Roe, et al. ("Defendants") acted under color of state law.

STATEMENT OF FACTS

13. Plaintiff Kaci Hickox ("Hickox") spent roughly one month in Sierra Leone working for MSF, arriving in Bo, Sierra Leone on September 23, 2014 and departing on October 22, 2014.

14. Upon arriving at Newark Liberty International Airport, Hickox was taken into custody and detained by Defendants without cause or legal justification for approximately 80 hours.

Ebola Transmission

15. Ebola is caused by infection with one of the Ebola virus strains. Symptoms include, *inter alia*, fever, headache, joint and muscle aches, diarrhea, and vomiting.

16. Ebola is spread through direct contact with the body fluids—e.g., blood, sweat, vomit, feces—of a symptomatic person. It can also be spread through exposure to objects that are contaminated with the virus, such as needles.

17. Individuals who have been infected with Ebola but have yet to manifest any symptoms are not infectious and cannot transmit the disease.

18. The maximum incubation period for the virus is 21 days. Symptoms most commonly appear within 8 to 10 days of exposure, and 90 percent of cases become symptomatic within 14 days of exposure.

Sierra Leone: September 23 – October 22, 2014

19. Prior to arriving in Sierra Leone, Hickox spent two days in Brussels, Belgium receiving special training from MSF regarding Ebola and infection control and prevention.

20. While in Sierra Leone, Hickox worked at MSF's Ebola Management Center as a nurse and medical team leader.

21. As medical team leader Hickox not only cared for patients but also carried out various management responsibilities, including, *inter alia*, training of staff, and creating and enforcing medical treatment protocols.

22. At all times while in Sierra Leone, Hickox carefully adhered to MSF's strict infection control policies.

23. MSF's infection control policies included, but were not limited to:

- always washing hands with 0.05 percent chlorinated water,
- maintaining at least a three meter distance at all times from persons who had not been tested but were suspected of having Ebola
- wearing full personal protective equipment ("PPE") at all times when in physical contact with confirmed Ebola patients at the Ebola Center
- always spraying all PPE items with 0.5 percent chlorinated water when removing PPE and always washing hands after PPE has been fully removed

- adhering to a country-wide “no touch” policy that prohibited any kind of physical contact with anyone, such as handshakes, hugs, and sharing any kind of item.

24. While in Sierra Leone, Hickox never experienced an incident that would put her at risk for infection, such as accidentally being pricked by a needle or being splashed with possibly infectious fluids from an Ebola patient.

25. All known contacts that Hickox had with persons infected with Ebola occurred while Hickox was in full PPE.

26. Hickox departed from Sierra Leone on October 22, 2014. From Sierra Leone, Hickox flew to Brussels. She spent two days at MSF in Brussels. She was not subject to detention, isolation, or quarantine of any kind upon entry into or while staying in Brussels.

27. That day, October 22, Defendant Christie publicly announced that he had signed Executive Order 164 creating a statewide Ebola Preparedness Plan (“EPP”). The EPP is posted on the website of the New Jersey Department of Health (“NJDOH”), of which Defendant O’Dowd was the Commissioner. The EPP calls for active screening of travelers who began their travel in an Ebola-affected country in West Africa. Under the EPP, such travelers are subject to temperature checks, visual inspection for symptoms of Ebola and questioning about their history of risk of exposure. The EPP also provides that travelers who are

asymptomatic but who are at some or high risk of exposure may be quarantined upon a determination by the NJDOH. The EPP does not give any guidelines or parameters for making this determination. If determined to be subject to quarantine, travelers are to be served with a quarantine order. For symptomatic travelers, EPP requires that they be “immediately transferred to one of three designated New Jersey hospitals under [Customs Border Patrol] escort.” The EPP does not state that asymptomatic travelers are subject to such a transfer. Rather, under the EPP, asymptomatic, at-risk travelers who are in transit or are not New Jersey residents and are subject to quarantine will be transported to a “State temporary housing arrangement.” New Jersey residents will be transported to their homes.

Arrival at Newark Liberty International Airport and Isolation at University Hospital: October 24 – October 27, 2014

Friday, October 24, 2014

28. From Brussels, Hickox flew to the United States, landing at Newark Liberty International Airport at or about 12:30 p.m. on Friday, October 24, 2014.

29. At airport immigration, Hickox informed the immigration officer that she had come from Sierra Leone. The officer said this would not be a problem and that she would probably be asked some questions. The officer then put on gloves and a mask, made a call, and escorted her to the nearby CDC

Newark Quarantine Station (“Quarantine Station”), which is operated by the U.S. CDC. The officer held on to Hickox’s passport while escorting her, and Hickox understood that she did not have a choice about whether or not to accompany the officer to the Quarantine Station.

30. Hickox was initially placed in a walled off area outside the Quarantine Station and an airport employee stayed with her at all times, apparently standing guard and conveying to Hickox that she was not free to leave.

31. Hickox’s temperature was taken using a temporal scanning thermometer. The temporal thermometer indicated that her temperature was normal and she did not have a fever. According to the CDC’s Risk Assessment for Travelers from Ebola Outbreak-Affected Countries (“CDC Risk Assessment”), Plaintiff’s temperature was 98.6 degrees.

32. Personnel at the Quarantine Station donned protective coveralls, gloves, masks and disposable face shields before speaking with Hickox.

33. Hickox was questioned by numerous persons, one after the other, who repeatedly asked the same questions. There seemed to be no coordination among the persons who interviewed her.

34. Among those who questioned her was a man who spoke to Hickox aggressively as if she were a criminal and was wearing a weapon belt that protruded from his coveralls.

35. Hickox was also interviewed by two officials, one of whom was from the CDC, about her medical work in Sierra Leone.

36. Hickox was tired from jetlag and traveling for two-days, hungry, thirsty, confused and emotionally exhausted. No one told her what was going on or what was going to happen to her.

37. After about an hour and a half, at or about 2:00 p.m., Hickox was able to contact her partner and her family. She also asked for some food and something to drink and was given water and a granola bar.

38. The CDC Risk Assessment indicates that the CDC cleared Plaintiff.

39. Upon information and belief, staff at the Quarantine Station contacted the NJDOH at some point that afternoon.

40. At or about 2:30 p.m., Hickox was informed that she might be quarantined and was told to wait to hear from the New Jersey Department of Health. At or about 3:00 p.m., Hickox spoke on her cell phone to Defendant Ludwig. Ludwig informed Hickox that she would be quarantined and that she would be transported by the New Jersey State Department to somewhere safe.

41. Hickox did not voluntarily consent to quarantine. Rather, Hickox explained to Ludwig that quarantine was unnecessary because she was exhibiting absolutely no symptoms of Ebola and posed no threat to anyone. Hickox

did not receive a quarantine order and was not given any more information, nor was she told what rights she had in the given situation.

42. At or about 4:30 p.m., at a news conference, Defendant Christie and New York Governor Andrew Cuomo announced Additional Screening Protocols for Ebola at John F. Kennedy International Airport in New York and at Newark Airport (“Additional Screening Protocols”). The Additional Screening Protocols include that:

Each State Department of Health at JFK and Newark Liberty International Airports will, as permitted under applicable law, make its own determination as to hospitalization, quarantine, and other public health interventions for up to 21 days. There will also be a mandatory quarantine for any individual who had direct contact with an individual infected with the Ebola virus while in one of the three West African nations (Liberia, Sierra Leone, or Guinea), including any medical personnel having performed medical services to individuals infected with the Ebola virus. Additionally, all individuals with travel history to the affected regions of West Africa, with no direct contact with an infected person, will be actively monitored by public health officials and, if necessary, quarantined, depending on the facts and circumstances of their particular situation.

43. Upon information and belief, Defendant Christie authorized, directed and/or promulgated the Additional Screening Protocols.

44. Upon information and belief, Defendant O’Dowd participated in, consulted on, approved of, directed and/or acquiesced in the creation, promulgation and/or implementation of the Additional Screening Protocols.

45. At the news conference, Defendant Christie indicated that the NJDOH had made and he had confirmed the decision to quarantine a healthcare worker, i.e., Hickox, who had arrived at Newark Airport from West Africa, even though she had no symptoms of Ebola. It was also indicated during the press conference that Defendant O'Dowd was managing the healthcare worker's situation.

46. Upon information and belief, Defendant Christie authorized, approved of, and/ or directed the quarantine of Hickox.

47. Upon information and belief, Defendant O'Dowd authorized, directed, and/or implemented the quarantine of Hickox.

48. According to an email dated October 24, 2014 at 5:35 p.m., the decision was made to quarantine Hickox when she was asymptomatic and there had been no elevated temperature readings.

49. At some time in the late afternoon or early evening—when Hickox was frustrated and flushed after being held and questioned for hours and being told she would be quarantined, even though it was not medically necessary to do so—a woman came to check Hickox's temperature with a temporal scanning thermometer. The woman pushed the button on the temporal scanning thermometer several times. When Hickox asked her what the thermometer indicated, the woman told Hickox that it showed she had a fever. Hickox explained to the woman that

her face was flushed from frustration. Hickox also said she did not believe the temporal scanner was accurate. Despite her emotional distress, Hickox felt physically healthy. She did not feel fevered.

50. Around this time, Hickox was moved into the Quarantine Station where she was placed in a room by herself and both doors were closed. An airport or Quarantine Station employee stood outside the door.

51. Later, Hickox was informed that because of her alleged fever she would have to undergo a medical evaluation. No one told her where she would be taken for her medical evaluation until she specifically asked for this information.

52. Throughout the time she was held at the Quarantine Station, Hickox felt there was a lack of communication as well as a lack of coordination, which caused her anxiety and distress.

53. At or about 6:00 p.m., Hickox was transported to University Hospital in Newark in an ambulance escorted by approximately eight police cars with lights and sirens blaring. At the hospital, Hickox was placed in an isolation tent. There were signs on the inside of doors of the tent stating "Do Not Enter" and indicating that Hickox could not leave the tent. At all times, a guard was stationed at the door to the building housing the tent where Hickox was detained.

54. The isolation tent was located in a large building that appeared to be unfinished because the ceiling pipes were exposed. The area was not properly heated. It was cold in the tent and one nurse outside the tent was wearing a blanket over her shoulders. Hickox had to ask for extra blankets to keep warm. The tent had a portable toilet but no shower.

55. The isolation tent had no telephone in the tent and the only computer was used for keeping medical records. Hickox was able to insist that she be allowed to take her cellular phone and charger into the tent with her. Her cellular telephone was Hickox's only access to the outside world as there was also no television in the tent. In addition, cellular telephone reception was not good in the tent so it was extremely difficult for Hickox to send or receive emails or documents for personal or legal business.

56. At University Hospital, Hickox's temperature was within normal range initially, showing 99.1 degrees when taken with an oral thermometer. In contrast, the temporal scanning thermometer showed an exaggeratedly high temperature of 101.1 degrees.

57. Shortly thereafter, two doctors, one of whom was Dr. David Cennimo, an infectious disease doctor, and a paramedic met with Hickox in the isolation tent. They asked her a few questions, checked her vital signs, drew blood and took her temperature with an oral thermometer. The oral thermometer

indicated that Hickox's temperature was normal. The doctors seemed confused and said that they were told that Hickox had a fever. Hickox said that she believed the temporal thermometer used at the Quarantine Station was inaccurate. They then took her temperature again using a temporal thermometer. Only a minute or two after the oral thermometer indicated Hickox had no fever, the temporal scanning thermometer again indicated an exaggeratedly high temperature, showing 102 degrees. One of the doctors felt her neck with his gloved hand and said he did not think the temporal thermometer was accurate. He also agreed with Hickox that she was flushed.

58. Dr. Cennimo and Edward Lifshitz, Medical Director of the Communicable Disease Service of the New Jersey Department of Health and Senior Service, both cast doubts on the accuracy of the temperature readings taken from Hickox's forehead, indicating that the oral readings were more reliable and were the "gold standard."

59. At or about 8:30 p.m. Hickox's temperature was taken with an oral thermometer. The oral thermometer indicated her temperature was a normal 98.1 degrees.

60. Hickox's temperature was checked again around 9:50 p.m. Again there was a discrepancy between the temperatures indicated by the temporal scanning thermometer and the oral thermometer. The temporal thermometer

indicated that Hickox had a fever, with a temperature of 100.5 degrees. But Hickox recalls that her temperature was taken at about the same time with an oral thermometer and that it showed her temperature to be about 98.2 degrees.

61. Hickox's temperature was taken with a temporal thermometer again around 11:30 p.m. and it was only 99.5 degrees. An oral temperature reading taken only about 30 minutes later showed Hickox's temperature was 98 degrees. And another oral reading taken about twenty minutes after that showed Hickox's temperature was 98.6 degrees. During the remainder of her confinement, Hickox's temperature never again rose above 99.5 degrees, regardless of the thermometer used.

62. Upon information and belief, normal body temperature can have a wide range from 97 degrees to 99 degrees, even going as high as 100 degrees. Upon information and belief a temperature of 100.4 degrees has been identified as a benchmark for when one has a fever caused by an infection or illness.

63. At some point on Friday evening, Hickox received a call from an employee of the New Jersey Department of Health asking if she had received a signed quarantine order. She had not. The person then said they would make sure Hickox got the order.

64. Also on Friday evening, the NJDOH issued a statement under Defendant O’Dowd’s name, which confirmed that the decision to quarantine “the healthcare worker,” i.e., Hickox, had been made despite her having no symptoms and indicated, incorrectly, that “the healthcare worker” had developed a fever. The statement also indicated that Hickox was in isolation and under evaluation at University Hospital in Newark.

Saturday, October 25, 2014

65. At or about 3:14 a.m., Defendant O’Dowd received an email reporting the lab results from the New York City Department of Health and Mental Hygiene’s Public Health Laboratory, which showed that Hickox tested negative for Ebola.

66. According to Hickox’s medical records, from at least 4:58 a.m. on October 25 until her discharge on October 27, Hickox was never characterized as febrile or in any way symptomatic. The Emergency Department Provider Notes for this period characterize Hickox as “afebrile,” “asymptomatic” or having “no active health issues,” despite occasional temperatures ranging from 99.1 to 99.5 degrees.

67. In an email dated October 25, 2014 8:04 a.m., notwithstanding that Hickox’s test results came back negative for Ebola, a NJDOH epidemiologist stated, “We are recommending keeping her in isolation and observe for 72 hours.”

Upon information and belief, notwithstanding that Hickox had tested negative for Ebola and had no fever, Defendants O’Dowd and Christie authorized, approved of and/or directed the continued detention of Hickox.

68. That morning Hickox requested to take a shower and was brought water for a sponge bath. When she requested clean clothes to change into, she was given only thin paper scrubs.

69. At or about 12 p.m. The Dallas Morning News published on its website, www.dallasnews.com, an account by Hickox of her experience and treatment at Newark International Airport and at University Hospital. Later that afternoon Defendant Christie described Hickox as “obviously ill.” Defendant Christie went on to imply that she was exhibiting symptoms of Ebola, saying, “I’m sorry if in any way she was inconvenienced but inconvenience that could occur from having folks that are symptomatic and ill out amongst the public is a much, much greater concern of mine.”

70. At or about 3:14 p.m. NJDOH received the lab results from the CDC in Atlanta, Georgia, which showed that Hickox tested negative for Ebola (“Ebola RT-PCR was negative”).

71. Despite this second test confirming that Hickox was negative for Ebola, Hickox continued to be detained, isolated and quarantined.

72. At or about 4:00 p.m., Hickox found the Administrative Order Declaring Quarantine and Isolation of Kaci Hickox (“the Order”), attached as Exhibit A, lying on top of the portable hand-washing station in the tent. The Order, which violated clearly established law, was signed by Defendant O’Dowd.

73. Upon information and belief, Defendant Christie knew of, authorized, approved, and/or directed the issuance of the Order.

74. Hickox was disturbed by the vagueness of the Order. She was confused and scared by what was happening to her and by the lack of communication from those responsible for holding her under quarantine and isolation.

75. The Order stated that “pursuant to N.J.S.A 26:4-2d and N.J.A.C 8:57-1.11, the Department [of Health] has the power to maintain and enforce proper and sufficient quarantine or isolation, whenever deemed necessary.”

76. N.J.S.A 26:4-2d states “In order to prevent the spread of disease affecting humans, the Department of Health, . . . , shall have the power to: Maintain and enforce proper and sufficient quarantine, wherever deemed necessary,” not “whenever deemed necessary.” (All emphasis added.)

77. The Order also stated that “pursuant to N.J.S.A 26:4-2e and N.J.A.C 8:57-1.11, the Department has the power to remove any person exposed to or infected with a communicable disease to a suitable place, if in its judgment,

removal is necessary and can be accomplished without any undue risk to the person infected.”

78. N.J.S.A. 26:4-2e states, “In order to prevent the spread of disease affecting humans, the Department of Health . . . shall have power to: . . . [r]emove any person infected with a communicable disease to a suitable place . . .”

Section 26:4-2e does not authorize removal of persons merely exposed to or at risk of exposure to a communicable disease.

79. N.J.A.C. 8:57-1.11 states, in relevant part:

(a) A health officer or the Department, upon receiving a report of a communicable disease, shall, by written order, establish such isolation or quarantine measures as medically and epidemiologically necessary to prevent or control the spread of the disease.

1. If, in the medical and epidemiologic judgment of the health officer or the Department, it is necessary to hospitalize the ill person in order to provide adequate isolation, a health officer or the Department shall promptly remove, or cause to be removed, that person to a hospital.

...

(c) The Department . . . may, by written order, isolate or quarantine any person who has been exposed to a communicable disease as medically or epidemiologically necessary to prevent the spread of the disease, providing such period of restriction shall not exceed the period of incubation of the disease.

(All emphasis added.)

80. N.J.A.C. 8:57-1.11 authorizes quarantine or isolation only of persons who are infected or have actually been exposed to a communicable

disease. N.J.A.C. 8:57-1.11 does not authorize quarantine of persons who are merely at risk of exposure, regardless of the level of that risk.

81. The Order states, *inter alia*:

1. The traveler shall be maintained in isolation or quarantine until it is determined that she does not present a danger to the public health. Unless and until medical testing is able to show that she does not have Ebola, and unless and until appropriate medical professionals are able to determine that she does not present an immediate danger to the public health, she shall remain in isolation at University Hospital.

2. After such time the traveler shall remain in quarantine in such form and at such location as I [Mary E. O’Dowd, Commissioner, New Jersey Department of Health] deem appropriate. . . . Less restrictive alternatives would not be sufficient to guard against the spread of the disease.

. . .

5. The quarantine or isolation of any person shall be terminated by the Commissioner when the person no longer poses a threat of transmitting Ebola to others.

6. This order shall remain in force until modified or terminated by the Commissioner, or as set forth herein.

82. The Order does not state that Hickox was actually exposed to Ebola, only that she was “at a high risk of having been exposed,” an assessment which did not comport with CDC Interim Guidance classifying healthcare workers who wore PPE as “at some risk” of exposure. (*See infra.*)

83. Paragraph five of the Order did not state meaningful conditions for Hickox’s release. Paragraph five was effectively a nullity because Hickox

never posed a threat of transmitting Ebola. At a minimum, by the time Hickox received the Order, Hickox—who had tested negative for Ebola and had no fever—should already have been removed from isolation and quarantine. There was no medical or epidemiological reason for her isolation and she posed no threat for the transmission of Ebola.

84. Regarding Hickox’s right to contest the order, the order stated only:

7. Any person or persons subject to this Order may seek relief from the Commissioner from the provisions of the Order by making a written application within 10 days to Office of Legal and Regulatory Compliance, New Jersey Department of Health, P.O. Box 360, Trenton, New Jersey 08625-0360 or OLRC@doh.state.nj.us. A person may obtain additional information by calling (609) 984-2177.

8. Unless stayed by order of the Commissioner, the written order for quarantine and isolation shall remain in force and effect until the proceeding commenced under paragraph 7 is finally determined and disposed of on its merits.

85. The Order did not mention the possibility of judicial review of the Order, the nature of the proceeding, or Hickox’s rights under any such proceeding, including the right to counsel.

86. Moreover, the conditions of Hickox’s confinement made it impossible for her to seek the relief described in paragraph seven of the Order because she did not have access to the materials necessary for a written application for relief, such as paper and writing utensils.

87. At or about 6:00 p.m., Hickox received a call from Defendant Rinn. Hickox asked him to tell her what the plan was for her and to tell her what valid medical protocol justified her detention and isolation in quarantine. He did not have an answer for her and told her he would get back to her. Hickox did not hear from him for 24 hours, and even then he still did not have an answer for her.

88. At or about 6:55 p.m. Hickox's mother called her. Hickox's mother was afraid that Hickox might be sick because Defendant Christie had recently said in an interview that Hickox was "obviously ill."

89. That evening, Hickox spoke with a doctor and asked what would happen to her given that she had tested negative for Ebola and remained asymptomatic. The doctor did not answer Hickox's question, alluding to the fact that it was not his decision.

90. No one could or would tell Hickox why she was being held even after her blood sample twice tested negative for Ebola, causing Hickox further anxiety and distress.

91. Also that evening, an employee from MSF-USA brought Hickox warm clothes. The MSF employee was not allowed to enter the area where the tent was so that she could see and visit with Hickox, even though hospital staff entered the area and spoke to Hickox through the window without wearing any protective attire or equipment. Hickox felt frustrated, isolated, alone, and forgotten.

Sunday, October 26, 2014

92. Hickox remained asymptomatic on Sunday, October 26 but she continued to be held in the isolation tent.

93. At or about 7:30 a.m. Hickox asked to speak to the person who was in charge of her detention so that she could ask to see her lawyer, Norman Siegel. The hospital employee in charge told Hickox that the no visitor policy was the Department of Health's decision, not the hospital's decision. Hickox explained that she wanted to see her lawyer and gave the hospital employee Siegel's telephone number.

94. Finally, at or about 6:00 p.m., Hickox received another call from Rinn. Rinn said he wanted to discuss what would happen next, but still would not explain why Hickox continued to be detained when she had tested negative for Ebola and was completely asymptomatic. Hickox was distressed and felt like she was being manipulated. She told Rinn to contact her lawyer about next steps.

95. At or about 5:00 p.m., Hickox's lawyers, Norman Siegel and Steven Hyman, were allowed into the area outside Hickox's tent. They met and spoke with Hickox through the window in the tent.

Monday, October 27, 2014

96. On Monday morning, no one from the hospital or the Department of Health told Hickox what would happen next. Rather, at or about

9:30 a.m., Hickox received a text from her partner informing her that the media was reporting that Defendant Christie said Hickox would be released from isolation if the CDC gave its approval.

97. At or about 11:00 a.m., hospital staff entered the isolation tent without protective gear and shook Hickox's hand. The hospital staff told Hickox that she would be released but they had no additional information.

98. At or about 1:30 p.m., Hickox was released from the hospital but was not released from custody and continued to be detained as she was driven to Maine in the company of three New Jersey Emergency Medical Technicians.

99. Upon information and belief, the treatment Hickox received in New Jersey and the communications between New Jersey and Maine officials affected the treatment Hickox received upon her return to Maine.

CDC Interim Guidance for Monitoring and Movement of Persons with Potential Ebola Virus Exposure (“CDC Interim Guidance”)

100. According to the CDC Interim Guidance, as updated October 29, 2014, persons in countries with widespread transmission who have “direct contact while using appropriate PPE with a person with Ebola while the person was symptomatic” are classified as being at “some risk” of Ebola Exposure, not “high risk.” Hickox falls into the “some risk” category.

101. For asymptomatic persons classified in the “some risk” category, such as Hickox, the CDC recommends:

direct active monitoring until 21 days after the last potential exposure. Public health authorities may consider additional restrictions based on a specific assessment of the individual's situation. Factors to consider include the following: intensity of exposure (e.g., daily direct patient care versus intermittent visits to an Ebola treatment unit); point of time in the incubation period (risk falls substantially after 2 weeks); complete absence of symptoms; compliance with direct active monitoring; the individual's ability to immediately recognize and report symptom onset, self-isolate, and seek medical care; and the probability that the proposed activity would result in exposure to others prior to effective isolation.

The "additional restrictions" that public authorities might consider do not include detention, quarantine or isolation.

102. At all times Hickox was willing to cooperate with and supported compliance with the CDC Interim Guidance.

103. Defendants' conduct caused Hickox to be deprived of her liberty and to sustain suffering, and injury and psychological and emotional trauma. Their actions constituted outrageous and reckless conduct, and demonstrated a callous indifference to and willful disregard of Plaintiff's federal and statutory rights.

104. In taking the actions described above, the Defendants were acting under color of state law as aforesaid.

105. On December 30, 2014 a notice of claim was mailed and on January 5, 2015, the notice of claim was received by the Tort and Recovery Unit of the Bureau of Risk Management at the New Jersey Department of the Treasury. At

least six (6) months have elapsed since the service of such notice, and adjustment and/or payment has been neglected and/or refused.

FIRST CLAIM FOR RELIEF

(VIOLATION OF THE FOURTH AMENDMENT AND FOURTEENTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES)

106. Plaintiff repeats and realleges each and every allegation set forth above.

107. Defendants, acting under color of state law, unreasonably caused Plaintiff to be confined under quarantine without legal basis in violation of Plaintiff's right to be free of an unreasonable seizure under the Fourth Amendment to the Constitution of the United States, and to be free of a deprivation of liberty under the Fourteenth Amendment to the Constitution of the United States.

108. Plaintiff suffered injury and damages as a result of Defendants' conduct.

SECOND CLAIM FOR RELIEF

(VIOLATION OF SUBSTANTIVE DUE PROCESS UNDER THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES)

109. Plaintiff repeats and realleges each and every allegation set forth above.

110. Plaintiff has a liberty interest in being free from restraint such as detention, isolation and/or quarantine.

111. Defendants, acting under of color of state law, unreasonably and unlawfully deprived Plaintiff of this liberty by detaining, isolating and quarantining her without medical or epidemiological justification, pursuant to, *inter alia*, New Jersey's statewide Ebola Preparedness Plan, the Additional Screening Protocols for Ebola at Newark Airport, and the Administrative Order Declaring Quarantine and Isolation of Kaci Hickox.

112. Defendants violated Plaintiff's clearly established substantive due process rights by, *inter alia*, (i) detaining, isolating, and quarantining her without an adequate individualized assessment of the risk, if any, that Hickox in particular posed to the public health; (ii) not using the least restrictive means available to protect the public health; (iii) subjecting Plaintiff to confinement the nature and duration of which did not bear a reasonable relation to the purpose for which Plaintiff was confined; and (iv) quarantining Plaintiff under a quarantine order that was not authorized by N.J.S.A 26:4-2d, N.J.S.A. 26:4-2e, or N.J.A.C. 8:57-1.11, which do not authorize quarantine of persons who are merely at risk of exposure, and not actually exposed to a communicable disease.

113. Plaintiff suffered injury and damages as a result of Defendants' conduct.

THIRD CLAIM FOR RELIEF

(VIOLATION OF PROCEDURAL DUE PROCESS UNDER THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES)

114. Plaintiff repeats and realleges each and every allegation set forth above.

115. Defendants' detention, isolation and quarantine of Plaintiff pursuant to New Jersey's statewide Ebola Preparedness Plan, the Additional Screening Protocols for Ebola at Newark Airport, and the Administrative Order Declaring Quarantine and Isolation of Kaci Hickox violated Plaintiff's right to procedural due process under the Fourteenth Amendment to the Constitution of the United States by failing to provide for a prompt hearing for judicial review of Plaintiff's isolation and/or quarantine where Plaintiff could be represented by counsel and could present opposing evidence and argument and could cross examine witnesses.

116. In detaining, isolating and quarantining Plaintiff, Defendants were acting under color of state law.

117. Plaintiff suffered injury and damages as a result of Defendants' conduct.

FOURTH CLAIM FOR RELIEF

(FALSE IMPRISONMENT)

118. Plaintiff repeats and realleges each and every allegation set forth above.

119. Defendants unlawfully detained and confined Plaintiff by authorizing, directing, approving and/or implementing the unlawful and unreasonable detention, isolation and/or quarantine of Plaintiff at Newark International Airport and at University Hospital. In so doing, Defendants substantially interfered with Plaintiff's liberty.

120. Defendants intended to confine and did confine Plaintiff. Plaintiff did not consent to the confinement and the confinement was not otherwise privileged.

121. Defendants lacked proper legal authority or legal justification to detain, isolate and/or quarantine Plaintiff because they were acting pursuant New Jersey's statewide Ebola Preparedness Plan, the Additional Screening Protocols for Ebola at Newark Airport, and the Administrative Order Declaring Quarantine and Isolation of Kaci Hickox, which are unconstitutional as applied to Plaintiff in this case.

122. Defendants authorized, directed, and/or acquiesced to words and/or conduct that created a reasonable apprehension of force in Plaintiff and the means of coercion was at hand.

123. Plaintiff suffered injury and damages as a result of Defendants' conduct.

124. Pursuant to 28 U.S.C. § 1367, this Court has pendant or supplemental jurisdiction to hear and adjudicate such claims.

FIFTH CLAIM FOR RELIEF

(INVASION OF PRIVACY—FALSE LIGHT)

125. Plaintiff repeats and realleges each and every allegation set forth above.

126. On October 25, 2014 Defendant Christie made a public statement falsely indicating that Plaintiff was obviously ill and implying that she was symptomatic for Ebola, despite medical evidence to the contrary.

127. Defendant Christie's statement was untrue at the time it was publicized.

128. Falsely indicating that a person is sick with or symptomatic for a highly contagious and deadly disease would be highly offensive to a reasonable person.

129. When this statement was made, Defendant Christie had knowledge of and/or acted in reckless disregard as to the falsity of the publicized matter and the false light in which Plaintiff was placed.

130. Plaintiff suffered injury and damages as a result of Defendant Christie's statement.

131. Pursuant to 28 U.S.C. § 1367, this Court has pendant or supplemental jurisdiction to hear and adjudicate such claims.

DEMAND FOR JURY TRIAL

132. Plaintiff demands trial by jury.

PRAYER FOR RELIEF

Wherefore, Plaintiff requests the following relief:

- A. Compensatory and punitive damages in the amount of at least \$250,000.00 or another amount to be determined at trial.
- B. The costs of this action, including reasonable attorney's fees, pursuant to 42 U.S.C. § 1988.
- C. Any further and different relief that this Court deems appropriate.

Dated: Newark, New Jersey
October 22, 2015

AMERICAN CIVIL LIBERTIES UNION
OF NEW JERSEY FOUNDATION

By: /s/Edward Barocas

Edward Barocas

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CERTIFICATION PURSUANT TO LOCAL RULE 11.2

The matter in controversy in *Kaci Hickox v. Christopher James Christie, et al.* is not the subject of any other action pending in any court, or of any pending arbitration or administrative proceeding.

I, Edward Barocas, certify under penalty of perjury that the foregoing is true and correct.

Executed on October 22, 2015.

/s/Edward Barocas

Edward Barocas

VERIFICATION OF KACI HICKOX

I, Kaci Hickox, an adult resident in the State of Oregon and Plaintiff in the foregoing Complaint, declare under penalty of perjury that the facts contained in the foregoing Complaint are true and correct.

Executed on October 21, 2015, in Springfield, Oregon.



A handwritten signature in cursive script, appearing to read "Kaci Hickox", is written above a horizontal line.