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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO**

CURTIS NORTON,

Plaintiff,

v.

KOOTENAI COUNTY, KOOTENAI
COUNTY ADULT MISDEMEANOR
PROBATION DEPARTMENT, MARC
ANDERSON, MIKE WALL

Defendants.

CIVIL ACTION NO.

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

COMPLAINT

(THE PLAINTIFF DEMANDS A TRIAL BY JURY)

COMES NOW, the Plaintiff, CURTIS NORTON, by and through his counsel of record, Larry D. Purviance, who files his Complaint against the aforementioned Defendants. In support of the same, the Plaintiff states, avers and gives notice of the following:

PARTIES

3. The Plaintiff is a citizen of the United States of America and the State of Idaho and he resides in Kootenai County, District of Idaho. The constitutional violations against

CURTIS NORTON Plaintiff were inflicted by the Defendants while he was on probation through the Defendant, KOOTENAI COUNTY ADULT MISDEMEANOR PROBATION DEPARTMENT.

4. The Defendant, KOOTENAI COUNTY, is a political subdivision of the State of Idaho and is the entity responsible for the oversight and funding of the KOOTENAI COUNTY ADULT MISDEMEANOR PROBATION DEPARTMENT. This Defendant may be served with process by affecting the same upon the secretary of the County Commissioners of the Defendant, KOOTENAI COUNTY. At all times relevant herein, this Defendant was acting “under Color of State Law.”

5. The Defendant, the KOOTENAI COUNTY ADULT MISDEMEANOR PROBATION DEPARTMENT an office of Defendant KOOTENAI COUNTY organized to provide supervision to probationers who are sentenced by the Courts of Kootenai County, State Idaho. At all times relevant herein, this Defendant was acting “under Color of State Law.”

6. The Defendant, MIKE WALL, is an employee who is employed by the defendant KOOTENAI COUNTY as the Departmental head of Defendant KOOTENAI COUNTY ADULT MISDEMEANOR PROBATION DEPARTMENT. At all times material herein MIKE WALL was duly vested with the responsibility and authority to hire, train, supervise, set policies and procedures, enforce the policies and procedures adopted or otherwise implemented and to provide supervision to probationers in Kootenai County, state of Idaho, including the Plaintiff, CURTIS NORTON. MIKE WALL was the

supervisor of Defendant MARC ANDERSON. This defendant is sued in his official and his individual capacities.

7). Defendant MARC ANDERSON was an employee of defendant KOOTENAI COUNTY ADULT MISDEMEANOR PROBATION DEPARTMENT and at all times relevant herein was CURTIS NORTON's Probation Officer. This defendant is sued in his official and his individual capacities.

JURISDICTION

9. The Plaintiff herein invokes the federal question jurisdiction of this Honorable Court pursuant to 28 U.S.C. Sections 1331 & 1343 to obtain a judgment for the costs of suit, including reasonable attorneys' fees, and damages suffered and sustained by the Plaintiff, CURTIS NORTON and caused by the Defendants' blatant and continuing violation of the rights, privileges and immunities of the Plaintiff, CURTIS NORTON, as guaranteed by the First Amendment of the Constitution of the United States of America and by the applicable Federal statutes, more particularly, 42 U.S.C. Sections 1983, 1985(3), 1986 & 1988 et seq. The Court has particularized Jurisdiction over this matter pursuant to Inouye v. Kemna, 504 F.3d 705 (9th Circuit 2007)

VENUE

10. Venue is proper in this jurisdiction and district pursuant to 28 U.S.C. Section 1391(b) because a substantial part of the real and immediate harm sustained by the Plaintiff occurred in this judicial district and division.

STATEMENT OF FACTS

- 1.** This is a Federal Civil Rights action brought as a result of what the Plaintiff believes was a blatant violation of his rights under the First Amendment of the United States Constitution.
- 2.** On August 6, 2008, CURTIS NORTON was sentenced on a misdemeanor charge by the Honorable Judge Stow for the crime Driving Under the Influence charge, in violation of I.C. § 18-8002 *et seq.* A term and condition of CURTIS NORTON's Supervised Probation Order is that CURTIS NORTON was to comply with "All Conditions of Judg. And any treatment, curfew, restrictions that P.O. directs (sic)."
- 3.** Sometime after CURTIS NORTON was sentenced, he met with his Probation Officer, Defendant MARC ANDERSON, who informed CURTIS NORTON in writing that a condition of his probation was that the Plaintiff had to attend at least two Alcoholics Anonymous meetings per week.
- 4.** CURTIS NORTON is a lifelong agnostic who does not believe in any organized religion, religious concepts of God or in a "Higher Power." CURTIS NORTON's

- firmly-held agnostic beliefs were deeply offended and disturbed by the overt and constant religious expressions and frequent prayer that occurred when he started attending Alcoholics Anonymous meetings as required by MARC ANDERSON.
5. In December of 2008, CURTIS NORTON informed MARC ANDERSON that his attorney had told CURTIS NORTON that mandatory attendance at Alcoholics Anonymous violated CURTIS NORTON'S First Amendment Rights.
 6. MARC ANDERSON responded by telling CURTIS NORTON that his attorney "isn't your probation officer, is he?"
 7. On December 3, 2008 CURTIS NORTON was arrested and jailed on a probation violation warrant drafted by MARC ANDERSON. CURTIS NORTON's probation was violated in part because of his refusal to attend Alcoholics Anonymous meetings.
 8. In January, 2009, CURTIS NORTON met with his probation officer MARC ANDERSON. During the ensuing discussion, CURTIS NORTON proposed to fulfill his legitimate treatment requirements by attending professional substance abuse treatment through Alliance Family Services, Inc.
 9. Before meeting with MARC ANDERSON, CURTIS NORTON had arranged through Alliance Family Services, Inc. to commence substance abuse with David P. Robinson, a duly-licensed Idaho Certified Alcohol and Drug Counselor. CURTIS NORTON agreed to attend professional counseling through with David Robinson twice a week in lieu of Alcoholics Anonymous meetings.

10. MARC ANDERSON refused to allow CURTIS NORTON to comply with his probation in such a manner, and again ordered CURTIS NORTON to attend Alcoholics Anonymous meetings.
11. That the continuing and willful conduct of the Defendants violates CURTIS NORTON'S rights under the "Establishment Clause" and "Free Exercise Clause" of the First Amendment of the United States Constitution.
12. That the violations herein are against clearly established statutory or constitutional rights of which a reasonable person would have known.

COUNT I ACTION FOR DEPRIVATION OF CIVIL RIGHTS

(42 U.S.C. SECTION 1983)

11. The Plaintiff hereby incorporates by reference and re-alleges the information set forth in the preceding paragraphs.
12. At all times material hereto, the Defendants were vested with the state authority and the non-delegable responsibility and duty of adhering to, complying with and enforcing the laws of the United States of America and the State of Idaho. Consequently, while acting under color of state law, the Defendants commenced to implement a policy, custom, usage or practice wherein the rights, privileges or immunities of the Plaintiff, CURTIS NORTON, were violated. Specifically, the Defendants, jointly and severally, engaged in a course of conduct that resulted in the violation of the CURTIS NORTON'S right to the equal protection of the laws of the United States of America, the Fourteenth Amendment to the Constitution of the United States of America and the corresponding

provisions of the Constitution of the State of Idaho, the right to procedural and substantive due process of the law pursuant to the First, Fifth and Fourteenth Amendments to the Constitution of the United States of America. The violations complained of in this Complaint include, but are not limited to the deprivation of identifiable civil rights, i.e., life, liberty and/or property, the right to be free of an Established Religion and CURTIS NORTON'S right to Freedom of Religion. The Defendants conduct resulted in a deprivation that was sufficiently serious wherein the Defendants acted, maliciously and willfully thereby inflicting mental and emotional harm, pain, humiliation and/or injury, and thereafter evidenced a deliberate indifference to CURTIS NORTON's Constitutional Rights.

13. As a direct and proximate consequence of the Defendants' actions, CURTIS NORTON, was deprived of certain rights, privileges and immunities secured by the Constitution of the United States of America, the laws of this Nation and the State of Idaho. Specifically, CURTIS NORTON'S Fourteenth Amendment rights to procedural and substantive due process and equal protection of the laws were violated by the Defendants, as well as CURTIS NORTON'S First Amendment right to Religious Freedom and his freedom from Established Religion.

14. At all times material hereto, the Defendants and their agents, representatives, and employees acted pursuant to the policies, regulations, failure to develop a policy which would have prevented rogue behavior, and decisions officially adopted or promulgated by those persons whose acts may fairly be said to represent official policy of or were pursuant to a governmental custom, usage or practice of the Defendants.

15. It is further averred that the Defendants were the governmental officials whose edicts or acts may fairly be said to represent official policy, practices, customs or regulations of the Defendants. The aforementioned Defendants collectively and individually developed, planned and implemented the policy, custom and/or usage that resulted in and caused the Constitutional injuries to CURTIS NORTON.

16. As a direct and proximate consequence of the Defendants' conduct wherein such Defendants deprived the Plaintiff, CURTIS NORTON, of certain rights guaranteed by the Constitution of the United States of America, the Plaintiff, CURTIS NORTON, suffered immediate and irreparable injury to his person resulting in the deprivation of his constitutional rights, privileges and immunities. The Plaintiff, CURTIS NORTON, experienced, humiliation, degradation, mental distress and severe emotional anguish.

**COUNT II ACTION FOR CONSPIRACY TO INTERFERE WITH CIVIL
RIGHTS (42 U.S.C. SECTION 1985)**

17. The Plaintiff hereby incorporates by reference and re-alleges the information set forth in the preceding paragraphs.

18. Prior to the time that the Plaintiff, CURTIS NORTON was placed on supervised misdemeanor probation with the defendants members of the KOOTENAI COUNTY MISDEMEANOR PROBATION DEPARTMENT began preparing for the violation of CURTIS NORTON'S Constitutional Rights. Each of them violated CURTIS NORTON'S constitutionally guaranteed rights under the First Amendment. CURTIS

NORTON'S freedom to practice or not practice religion or to join an established religion was intentionally thwarted by Defendants. Their plan was simply to violate CURTIS NORTON'S Constitutional Rights. This plan culminated in the completion of the agreement and a deprivation of Plaintiff's constitutional rights when the Plaintiff was required to attend Alcoholics Anonymous meetings in violation of his religious beliefs.

19. There existed at the KOOTENAI COUNTY MISDEMEANOR PROBATION DEPARTMENT a belief, practice; policy, usage and/or custom that it was acceptable violate the Constitutional Rights of Probationers. Furthermore, once Defendant MARC ANDERSON began violating CURTIS NORTON'S constitutional rights by ordering CURTIS NORTON to attend Alcoholics Anonymous meetings, those members of the KOOTENAI COUNTY MISDEMEANOR PROBATION DEPARTMENT who did not intervene to stop the violation of the Constitutional Rights of CURTIS NORTON, likewise became co-conspirators, aiders and abettors and/or accomplices to the deprivation of Plaintiff's civil, constitutional and human rights and they are likewise liable for their acts of omission.

20. Furthermore, the conspiracy to interfere with the Plaintiff's civil rights manifested itself in the preparation of a Warrant for CURTIS NORTON'S arrest written by or on behalf of Defendant MARC ANDERSON, which culminated in CURTIS NORTON'S arrest. This document was disseminated in a further attempt to punish CURTIS NORTON for his assertion of his Constitutional Rights and refusal to participate in Alcoholics Anonymous meetings.

21. The conspiracy to deprive the Plaintiff of certain federally protected rights, privileges and immunities began with a basic agreement among Defendants. It concluded with the arrest and jailing of CURTIS NORTON. It is clear from the facts set forth above that the Defendants willfully and maliciously agreed and conspired to engage in a course of conduct that resulted in blatant violation the Plaintiff's constitutional rights through their acts of omission and commission. As a direct and proximate consequence of the Defendants' actions on the dates in question, the Plaintiff has suffered an extremely serious Constitutional Violation and irreparable injury. Thus the Defendants are jointly and severally liable to the Plaintiff for the Constitutional violations and irreparable injury they caused to CURTIS NORTON.

COUNT IV FAILURE TO ADEQUATELY TRAIN

& SUPERVISE PROBATION OFFICERS

(42 U.S.C. SECTION 1983

23. The Plaintiff hereby incorporates by reference and re-alleges the information set forth in the preceeding paragraphs.

24. The Defendants, and each of them failed to provide adequate and competent training and/or supervision to the Defendant MARC ANDERSON while he was a Probation Officer for the KOOTENAI COUNTY ADULT MISDEMEANAOR PROBATION DEPARTMENT. The aforementioned Defendants are tasked with the non-delegable duty and responsibility to formulate, oversee and implement official policies, procedures, practices and customs that were to be carried out by Probation Officers employed by the KOOTENAI COUNTY ADULT MISDEMEANAOR PROBATION DEPARTMENT.

25. As a direct and proximate consequence of the aforementioned Defendants' failure to properly develop, implement and otherwise devise a policy of adequate Probation Officer training and/or supervision for its Probation officers, the Plaintiff was deprived of certain constitutional rights, privileges and immunities. If properly trained and supervised, every Probation Officer within the employ of the KOOTENAI COUNTY ADULT MISDEMEANOR PROBATION DEPARTMENT and Defendant MARC ANDERSON would have known of the illegality of the Defendants' conduct on the dates in question, and Plaintiff's injuries and the corresponding deprivation of his civil rights, privileges and immunities would not have occurred.

26. The need for additional or different training was so obvious and the inadequacy of the training given to Defendant MARC ANDERSON, was so likely to result in a violation of the Constitutional Rights of CURTIS NORTON, or any other person or persons similarly situated, that it amounted to deliberate indifference and blatant disregard for the rights, privileges and immunities of CURTIS NORTON and any other person or persons similarly situated. Thus, because of the failure to adequately train and supervise Kootenai County Probation Officers, the aforementioned Defendants are liable for Plaintiff's injuries and the deprivation of civil rights associated therewith. City of Canton v. Harris, 489 US 378(1989).

**COUNT V NEGLIGENT HIRING, RETENTION AND FAILURE TO
DISCIPLINE OR TAKE NECESSARY CORRECTIVE ACTION**

(42 U.S.C. SECTION 1983)

27. The Plaintiff hereby incorporates by reference and re-alleges the information set forth in the preceding paragraphs.

28. The Defendants were vested with the authority to hire, fire and discipline employees of the KOOTENAI COUNTY ADULT MISDEMEANOR PROBATION DEPARTMENT.

29. The Defendants, failed to properly vet, investigate the history of potential Probation Officer candidates, and once hired, failed to take necessary corrective measures when violations occurred, and failed to discipline probation officers when said violations occurred.

30. As a direct and proximate consequence of the aforementioned Defendants' failures and neglect, and willful lack of oversight, the Defendants' improper investigation of potential candidates, lack of and failure to discipline, and failure of defendants' implementation of corrective measures, Plaintiff has been injured, continues to suffer from said injuries, and was deprived of certain constitutional and civil rights, privileges and immunities.

31. The need to implement proper screening of potential probation officer candidates, the need to hire qualified candidates based on articulated criteria and training, the failure to discipline, implement training and oversight, and the need to implement new and different corrective measures is so obvious, that the violations of the rights afforded to CURTIS NORTON, or any other citizen similarly situated, by the Constitution, and the State of Idaho was foreseeable. As a result of Defendants' willful indifference to

implement and adhere to objective and reasonable practices and standards, Defendants' acts amounted to a blatant disregard for the rights, privileges and immunities of CURTIS NORTON, and other citizens so situated. Thus, Defendants, and each of them, are liable for CURTIS NORTON'S injuries and the deprivation of his civil rights and the violation of his constitutional rights.

PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, the Plaintiff, CURTIS NORTON, prays that upon the filing of this complaint that this Honorable Court would advance this case on the trial docket and thereafter set this matter for a full and complete jury trial on the merits and upon the completion of the same enter a judgment granting the following relief:

- a.** enter a judgment in favor of the Plaintiff and against the Defendants, jointly and severally, for the actual or compensatory and presumed damages sustained by the Plaintiff pursuant to 42 U.S.C. Sections 1983, 1985, 1986, 1988 et seq, for the violations of his First, Fourth, Fifth, and Fourteenth Amendment rights under the Constitution of the United States of America and any other injury or claim that may be discovered during the discovery process for which the law holds the Defendants liable and responsible in an amount to be determined by a jury;
- b.** a judgment in favor of the Plaintiff and against the Defendants, jointly and severally, for punitive or exemplary damages, for the outrageous, willful, wanton and intentional

