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JANE DOE, an individual.

UNITED STATES DISTRICT COURT FOR THE
CENTRAL DISTRICT OF CALIFORNIA

JANE DOE, an individual, **Plaintiff,** **vs.** **COUNTY OF SAN BERNARDINO, JULIO GARCIA, PROBATION OFFICER RUTLEDGE, YBON CORTA, DOES 1-10, INCLUSIVE.** **Defendants.**	**Case Number:** **COMPLAINT FOR DAMAGES** **1. Unreasonable Search and Seizure (42 USC 1983)** **2. Unreasonable Intrusion into Privacy and Behavior that Shocks the Conscience (42 USC 1983)**

3. Monell/Failure to Supervise
4. State Created Danger (42 USC 1983)
5. Failure to Supervise (42 USC 1983)
6. Ralphs Civil Rights Act (Cal. Civ. Code, § 51.7)
7. Assault
8. Battery
9. Sexual Battery (Cal. Civ Code §1708.5)
10. Gender Violence (Cal. Civ. Code §52.4)
11. Bane Act (Cal Civ Code § 52.1)
12. Intentional Infliction of Emotional Distress
13. Negligence

DEMAND FOR JURY TRIAL

INTRODUCTION

1. This 1983 Civil Rights and State Tort Actions seeks compensatory, statutory and punitive damages against named Defendant Julio Garcia, unknown DOES and COUNTY (except punitive) for violating United States Constitution and California laws related to brutal torture, rape, and excessive force to PLAINTIFF on or about May 25, 2019 and June, 2019 after reporting improper sexual advances to the County

of San Bernardino.

JURISDICTION AND VENUE

2. This Court has original jurisdiction pursuant to 28 U.S.C. §1331 and 1343(a)(3)-(4) because Plaintiff asserts claims arising under the laws of the United States including 42 U.S.C. §1983 and the Fourth and Fourteenth Amendments of the United States Constitution. This Court has supplemental jurisdiction over Plaintiff's claims arising under state law pursuant to 28 U.S.C. §1367(a), because those claims are so related to the federal claims that they form part of the same case or controversy under Article III of the United States Constitution.

3. Venue is proper in this Court because the Defendants reside in, and all incidents, events, and occurrences giving rise to this action occurred in the County of San Bernardino, California.

4. On or about November 4, 2019 around a timely Claim for Damages was submitted to the County of San Bernardino in substantial compliance with California Government Code § 910, et seq. As of the date of the filing of this Complaint, said Claim has been denied.

5. On December 2, 2019, the Government Tort claim was rejected as to the state claims.

PARTIES AND JURISDICTION

6. At all relevant times mentioned herein, Plaintiff JANE DOE was a resident of the County of San Bernardino and the State of California.

7. Plaintiff JANE DOE is informed and believes that at all times relevant herein, DEFENDANT JULIO GARCIA ("GARCIA") was at all relevant times herein employed by the County of San Bernardino in the position of Probation Officer at the San Bernardino County Probation Officer and stationed in Victorville, San Bernardino County, California. During all times mentioned herein, DEFENDANT GARCIA was acting under color and pretense of law, and under color of the statutes, ordinances, regulations, policies, practices, customs, and usages of the San Bernardino County Probation Department, and was acting within the course and scope of his employment with the San Bernardino County Probation Department.

8. Plaintiff JANE DOE is informed and believes that at all times relevant herein, DEFENDANT COUNTY OF SAN BERNARDINO (“COUNTY”) was, and now is, a municipal entity or political subdivision organized and existing under the laws of the State of California.

9. Plaintiff JANE DOE is unaware of the true names and capacities of those Defendants sued herein as DOES 1 through 10, inclusive, and therefore sues these Defendants using fictitious names. Plaintiff JANE DOE will amend this complaint to

allege the DOES' true names and capacities when that information becomes known. Plaintiff JANE DOE is informed and believes and on that basis alleges that each of these fictitiously named Defendants are legally responsible in some manner for the actions and inactions alleged herein and that the injuries suffered by Plaintiff JANE DOE as alleged throughout this complaint were proximately caused by these actions and inactions. Plaintiff JANE DOE further alleges, based upon information and belief, that each Defendant sued herein was acting as the agent or employee of each of the other Defendants, and in doing the acts alleged herein was acting within the course and scope of such agency and/or employment, and/or aided, abetted, cooperated with, and/or conspired with one another to do the acts alleged herein.

10. DEFENDANT **YBON CORTA** (“CORTA") is and was at all times mentioned herein a Probation Officer employed by the County of San Bernardino. He is being sued in his individual capacity and in his official capacity as a Probation Officer for the San Bernardino.

11. DEFENDANT **RUTLEDGE** (“RUTLEDGE") is and was at all times mentioned herein a Probation Officer employed by the County of San Bernardino. He is being sued in his individual capacity.

12. At all relevant times, DOES 1-2 were employed by the County of San Bernardino in the capacity of the probation officers.

13. At all relevant times, DOES 3-4 are believed to be members of law enforcement and are employed by the County of San Bernardino in some law enforcement capacity.

14. At all relevant times, DOES 5-10 were managerial, supervisorial, and policymaking employees of DEFENDANT COUNTY. On information and belief, DOES 5-10 had supervisorial authority over the San Bernardino Probation Department and its members or employees. At the time of the incident, DOES 5-10 were acting under color of law within the course and scope of their duties as officers or agents of DEFENDANT COUNTY. At all relevant times, DOES 5-10 were acting with the complete authority and ratification of their principal, DEFENDANT COUNTY.

15. At all relevant times mentioned herein DEFENDANT DOES 1 through 10, inclusive, were residents of San Bernardino County and/or business or corporate entities incorporated in and/or doing business in the State of California by virtue of the laws of the State of California.

16. Each Defendant is the agent, servant and/or employee of the other Defendants and each Defendant was acting within the course and scope of his, her, or its authority as an agent, servant, and/or employee of the other Defendants. Defendants, and each of them, are individuals, corporations, partnerships, and other entities which engaged

in, joined in, and conspired with the other wrongdoers in carrying out the tortious and unlawful activities described in this complaint, and Defendants, and each of them, ratified the acts of the other Defendants as described in this Complaint.

17. This Complaint concerns various incidents that occurred while JANE DOE was on probation in San Bernardino County in 2019 and at all times in compliance with the terms of the her probation.

18. The unknown named defendants, identified herein as DOES 1 through 10, include, but are not necessarily limited to other employees of DEFENDANT COUNTY of unknown rank and title who engaged in, assisted with, approved of, or acquiesced in the actions and misconduct described by defendants herein, resulting in the deprivation of JANE DOE's civil rights and injuries to their person, as is described below.

19. Said DOE Defendants additionally include unknown employees of the County of San Bernardino and the San Bernardino Sheriff Department who were supervisors who created, fostered, acquiesced, ratified and/or maintained the policies, customs and/or practices that caused the deprivation of JANE DOE'S Constitutional rights and his injuries.

20. JANE DOE is ignorant of the true names and capacities of these DOE Defendants, DOES 1-10, inclusive, though all are believed to have been employed by Defendant County of San Bernardino or acting in concert with Defendants and in the

capacity of state actors, but allege that each such Defendant was in some manner responsible for their injuries due to their own conduct which were either intentional done or done with reckless indifference to the rights of the JANE DOE.

FACTS

21. At all times referenced herein, while a probationer, JANE DOE was within the care, supervision, and control of the COUNTY OF SAN BERNARDINO ("COUNTY") and DEFENDANT GARCIA and other heretofore unknown Probation officers of the San Bernardino County Probation Department.

22. At all times referenced herein, JANE DOE was physically restrained to the San Bernardino area and was prohibited from leaving the state had monitoring terms and conditions of her probation.

23. Throughout the acts and omissions described herein, DEFENDANT GARCIA was wearing his department issued a badge and identification plate plainly visible, was armed with his department issued belt including handcuffs and armed with a firearm.

24. Throughout the acts and omissions described herein, DEFENDANT GARCIA used his position of authority to place JANE DOE in unreasonable duress and fear.

25. Ignacio Contreras ("NACHO") has been JANE DOE's on and off again boyfriend for five years. JANE DOE is afraid of being home alone at night and stays

with Nacho during the evening time. JANE DOE believed during the holiday season possibly after Thanksgiving of 2018, DOE 1, and DEFENDANT GARCIA came to Nacho's residence. JANE DOE remembered she had just made Christmas wreaths.

26. Nacho (boyfriend) and JANE DOE shared the same bedroom. DEFENDANT GARCIA searched the bedroom and JANE DOE and NACHO's person DEFENDANT GARCIA searched the outer clothing of JANE DOE. Nacho and JANE DOE sat at them kitchen table. DEFENDANT GARCIA pulled Nacho aside and kept asking him where the "dope" was.

27. DEFENDANT GARCIA called JANE DOE to the bedroom and asked her where the "shit" was. DEFENDANT GARCIA accused her of being high which she denied and DEFENDANT GARCIA threatened to drug test her which she told him he would not find anything because she was clean. DEFENDANT GARCIA told JANE DOE that he could send her up state for four years. DEFENDANT GARCIA then spoke to Nacho's parents in Spanish and told them he would be around more often. No arrests were made. Nacho and JANE DOE were never drug tested. JANE DOE had just purchased a used black GMC Suburban California, and told DEFENDANT GARCIA he could search it. DOE 1 and DEFENDANT GARCIA were dressed in their marked uniform. They never searched the Suburban.

28. During February or March 2019 in the morning JANE DOE had returned to her residence from going to court with a friend. JANE DOE was dressed nicely. JANE DOE's friend, Art Sanchez, was at the residence when she arrived home. JANE DOE has known Art for years and described him as 67 years old.

29. JANE DOE and Art walked out of the main residence. DOE 1, DEFENDANT GARCIA and DOE 2 arrived at the residence. The quiet DOE 1 and DEFENDANT GARCIA walked up to JANE DOE and asked JANE DOE if JANE DOE was home, not recognizing JANE DOE. They thought JANE DOE was her sister. JANE DOE told them her true identity. DEFENDANT GARCIA said he did not recognize JANE DOE from the last time. There were other comments made similar to "You'll clean up next". DEFENDANT GARCIA and the other two Probation Officers (hereinafter "PO") were in their official San Bernardino County officer uniforms. JANE DOE put her dog, Boy, away. DEFENDANT GARCIA was using his position as a pretext to see JANE DOE. DEFENDANT GARCIA was visibly upset she had a male visitor.

30. DEFENDANT GARCIA and DOE 1 searched JANE DOE's residence. DEFENDANT GARCIA told JANE DOE to have a seat on her bed and asked her if Art was her boyfriend. JANE DOE told DEFENDANT GARCIA no and he asked her when was the last time she used. She told DEFENDANT GARCIA she was not using. DEFENDANT GARCIA asked for JANE DOE's cell phone and he put his cell phone

number in her cell phone under "G". DEFENDANT GARCIA told her he(GARCIA) would be contacting her and he needed some information. DEFENDANT GARCIA told JANE DOE to stick her tongue out which she did. DEFENDANT GARCIA told JANE DOE she was high on drugs which she denied.

31. JANE DOE thought DEFENDANT GARCIA was her assigned Probation Officer but later found out he was never her assigned Probation Officer. DEFENDANT GARCIA and JANE DOE exchanged approximately 40 to 50 texts. She texted him asking if she could use him for an employment reference. He told her no but referred her to county employment. JANE DOE's daughter's cell phone got stolen on the school bus and she texted DEFENDANT GARCIA what should she do. DEFENDANT GARCIA told her to make a report and she told him she thought she could not have any law enforcement contact. DEFENDANT GARCIA occasionally would contact her with good morning and ask how she was. JANE DOE texted DEFENDANT GARCIA asking him if she was allowed to take a Jutsu class. DEFENDANT GARCIA would text her when would be a good time for him to come over. JANE DOE worked a lot and would tell DEFENDANT GARCIA she was at work.

32. One night JANE DOE got a text from DEFENDANT GARCIA that read, "I'm out front." JANE DOE saw a four door silver Ford Flex "creeping" down her street.

JANE DOE believed this was DEFENDANT GARCIA's car and it frightened her. In the morning JANE DOE texted good morning to DEFENDANT GARCIA and told him she thought he texted her last night by mistake. DEFENDANT GARCIA asked if she was available now. JANE DOE told DEFENDANT GARCIA she was working and he said he could come by on his lunch break. JANE DOE asked DEFENDANT GARCIA if he was married and he said yes. She told DEFENDANT GARCIA she DOES not mess around with married men. DEFENDANT GARCIA asked her if she was willing to do a "3." JANE DOE asked him do you mean a threesome and he said yes. DEFENDANT GARCIA told JANE DOE he had a girlfriend who has a house in Hesperia off of Main St. and Escondido in Hesperia. DEFENDANT GARCIA told JANE DOE she would be fine. DEFENDANT GARCIA said just this one time and asked where she was. JANE DOE told DEFENDANT GARCIA she was home and he ordered her to take a shower and get ready. JANE DOE told DEFENDANT GARCIA she just got home and walked through the door. She asked him what he would do if she did nothing. DEFENDANT GARCIA became pushy and told her to just do it and get showered up. JANE DOE said no and turned her phone off. JANE DOE was scared and fearful given that DEFENDANT had threatened to put her away for four years previously. JANE DOE was very uncomfortable and intimidated by the power of DEFENDANT GARCIA.

33. The next day DEFENDANT GARCIA texted and asked if she was ok and if they were good. She told DEFENDANT GARCIA she was good and no problem at all. A few days later DEFENDANT GARCIA texted her at approximately 1945 hours (7:45 p.m.) and asked if she could be ready to meet in Hesperia. She told him no and she was good. DEFENDANT GARCIA said, "Ok cool no problem." A few days later she got a ticket and texted DEFENDANT GARCIA to let him know. DEFENDANT GARCIA told her to let DEFENDANT RUTLEDGE know. DEFENDANT GARCIA asked if JANE DOE could meet him in Hesperia and she told him no.

34. Possibly the following day, she reported to DEFENDANT RUTLEDGE at his office reference the ticket. Nacho was with JANE DOE when this occurred. DEFENDANT RUTLEDGE took JANE DOE to his office and later told her to wait in the lobby. Someone wanted to talk to her and she was not in trouble. DEFENDANT RUTLEDGE threatened to issue a warrant if she left the lobby. After a few minutes DOE 1 took her to an office where DEFENDANT GARCIA was.

35. DOE 1 remained present. DEFENDANT GARCIA acted like he did not know her and asked her name and took her cell phone. Nacho remained in the lobby. DEFENDANT GARCIA began looking at the pictures in her cell phone. JANE DOE said the day was a Tuesday. DEFENDANT GARCIA told her they busted someone they said she was selling big quantities of speed. DEFENDANT GARCIA said they

had evidence against her and he would send her up state for more than four years. JANE DOE then fully became frightened of DEFENDANT GARCIA. DEFENDANT GARCIA told her she needed to come back on Friday with a name of dope dealer with guns for him or face charges herself. DEFENDANT GARCIA was talking loudly and purposefully threatening JANE DOE loud enough for others in the vicinity to hear.

36. JANE DOE left with Nacho and as they drove to his house. DEFENDANT GARCIA texted JANE DOE and told her not to be nervous and that she was fine. DEFENDANT GARCIA said,"Don't worry, the hell with the information." DEFENDANT GARCIA told her to be ready tonight at 2030 hours. JANE DOE did not respond to DEFENDANT GARCIA's text and stayed at Nacho's residence for fear of going to her residence.

37. JANE DOE had texted Dave Jaybe (retired Deputy) that she needed help. JANE DOE went to work the next day at the Victorville Fairgrounds and Dave arrived. JANE DOE showed Dave all the text messages from DEFENDANT GARCIA. She never deleted any of the texts and he never left her any voicemails. Dave called a SBCSD deputy friend of his and asked him what do they do when it's a cop? Dave's friend told him to go to Internal Affairs (IA) for SBCSD in Victorville. They immediately went to IA at the SBCSD Victorville Station. JANE DOE said they did not have to wait and were seen immediately by Detective Max Kunzman and reported

the aggressive and sexually deviant DEFENDANT GARCIA. This occurred on or about February of 2019.

38. Two IA deputies began interviewing her and she did not feel safe with them. She showed them the text messages. They asked if they could download her phone and she told them no. JANE DOE was frightened that these were in DEFENDANT GARCIA's friends and she was panicked she would be killed or sent to prison for four years.

39. JANE DOE believes it was Tuesday when DEFENDANT RUTLEDGE and a DOE 2 showed up at JANE DOE's residence. It was approximately 1800 hours. DEFENDANT RUTLEDGE said he needed to talk to her so they went to her shed and he searched it. DEFENDANT RUTLEDGE told JANE DOE DEFENDANT GARCIA wanted to talk to her. DOE 2 was on the phone and handed the phone to JANE DOE. DEFENDANT GARCIA was on the line and told her not to call or text his cell phone. DEFENDANT GARCIA told JANE DOE that IA had his phone and was investigating for inappropriate text messages. DEFENDANT GARCIA said if anyone called JANE DOE to say that the text messages were sent by mistake. DEFENDANT GARCIA told JANE DOE to tell DEFENDANT RUTLEDGE that she did not have to report on Friday.

40. JANE DOE had three voicemails on her phone believed to be dated April 2019 from PO III Ybon CORTA asking her to come to Juvenile Probation to speak with him (CORTA). JANE DOE met with DEFENDANT CORTA and he asked questions about the text messages from DEFENDANT GARCIA. JANE DOE showed DEFENDANT CORTA all the text messages which he videotaped and copied.

41. For almost a month JANE DOE did not hear from DEFENDANT GARCIA or see him. On or about May 2019 at approximately 0300 hours she was asleep in her residence located behind the front house also located of the same residence. DEFENDANT GARCIA forced opened her double front door of her residence which was only locked by a pin breaking the pin and window. DEFENDANT GARCIA ordered her to come with him. JANE DOE was frightened to death and became physically frozen. JANE DOE did what she was told to by DEFENDANT GARCIA because she was in extreme fear.

42. DEFENDANT GARCIA led JANE DOE to his four doors silver Ford Flex parked in front of her residence. He opened the right rear passenger door and JANE DOE got into the right rear backseat. JANE DOE did not speak and no one else was in the car with them. JANE DOE said it was dark outside and she was terrified. DEFENDANT GARCIA drove onto the S/B I-15 and took the Main Street exit and turned left and then right onto Escondido. DEFENDANT GARCIA's cell phone rang

and went on blue tooth. DEFENDANT GARCIA's wife called asking where he was and he told her he would be home soon.

43. DEFENDANT GARCIA opened the right rear passenger door and grabbed JANE DOE right arm pulling her into an unknown residence. DEFENDANT GARCIA made her sit on the tan colored carpeted bedroom floor in front of a workout bench.

44. When DEFENDANT GARCIA exited his vehicle in the garage JANE DOE heard the sound of handcuffs. As JANE DOE sat on the front of the bench DEFENDANT GARCIA took her wrists and handcuffed them above her head onto part of the workout equipment. JANE DOE had no shoes on and DEFENDANT GARCIA forcefully pulled her blue jeans and underwear off of her. JANE DOE did not have her purse or cell phone with her.

45. Two males, DOES 3-4 came into the bedroom. It is believed the males had been inside the residence upon her arrival. JANE DOE immediately and without control, began to cry, shake, hyperventilate and turn red as she began to describe the rape. The bedroom was dark. Both of the males had short hair and one possibly had a light mustache and slight facial hair under the bottom lip. JANE DOE was handcuffed and there were three males in the room with her including DEFENDANT GARCIA. JANE DOE's level of fear and panic escalated. JANE DOE could not see clearly due

to the darkness. All three men penetrated her vagina with their penises, taking turns raping her. JANE DOE cried and screamed out in pain and fear.

46. DEFENDANT GARCIA ordered JANE DOE into a bathtub filled with water and later ordered her out.

47. JANE DOE, after dressing, followed DEFENDANT GARCIA to the garage where he opened the right rear passenger door and she got into the right rear passenger seat. DEFENDANT GARCIA told her, "If anything happens to me or my buddies I will have your kids taken out!" DEFENDANT GARCIA took JANE DOE home to her residence without saying anything further. It was approximately 0700 hours when JANE DOE got home.

48. All day JANE DOE's legs felt raw like they were on fire. Her legs ached worse than she has ever felt her legs hurt. JANE DOE had severe bruising on the back of her legs and arms. A week later on May 26, 2019, JANE DOE took photographs of her bruises. JANE DOE preserved eight photographs of bruises to the back side of her legs and to her upper arms along with two photographs of DEFENDANT GARCIA from the internet. JANE DOE did not seek medical attention out of fear.

49. On a day in July or August, 2019 at 2200 hours JANE DOE was in front of her residence at the mailbox. DEFENDANT GARCIA pulled up next to her in his silver Ford Flex and rolled down the right front passenger window and told her to get in. She

opened the right rear passenger door and got into the right rear passenger seat. This time JANE DOE had her purse with her with her cell phone in it. Defendant GARCIA drove straight to the same house in Hesperia.

50. DEFENDANT GARCIA pulled straight into the garage and used a garage remote to open the garage. DEFENDANT GARCIA led JANE DOE to the same bedroom where the workout bench was and told her to strip. DEFENDANT GARCIA left but kept the bedroom door open. JANE DOE could hear voices she recognized as DOES 3 and 4. JANE DOE decided to turn her phone on and started audio recording, but her battery was low on her cell phone. JANE DOE hid her cell phone in her purse. A portion of this horrific evidence was recorded by JANE DOE.

51. DOES 3-4 and DEFENDANT GARCIA entered the bedroom all completely naked. JANE DOE could not tell if the men were circumcised but they did not wear condoms. JANE DOE was not handcuffed this time.

52. DEFENDANT GARCIA and the two males were slapping JANE DOE and forced JANE DOE to perform oral copulation. JANE DOE was sodomized by DOE 3, DOE 4, and DEFENDANT GARCIA. The men took their turns placing their penises in JANE DOE's mouth and sodomizing her. JANE DOE said while one was in her mouth another would be sodomizing her while another held her down. JANE DOE was positioned all over the bedroom floor and workout bench in all sort of positions

while being raped. The men slapped JANE DOE all over her body. JANE DOE was screaming, crying, shaking, and yelling at DEFENDANT GARCIA and DOES 3-4.

53. DEFENDANT GARCIA told JANE DOE she did a good job and he was proud of her calling her a good girl. DEFENDANT GARCIA led JANE DOE to the bathroom where he made her bathe in water to destroy DNA evidence. JANE DOE was in severe anal pain with bleeding. JANE DOE had to insert her fingers inside her anus to, "push everything back in." She had anal damage which included tissue damage and tearing. Her body was bruised and sore all over.

54. JANE DOE got out of the bathtub and went into the bedroom where her clothes were on the floor and got dressed. DEFENDANT GARCIA told her again she did a good job. JANE DOE could hear DOES 3-4 inside the residence but did not see them. DEFENDANT GARCIA led JANE DOE to his vehicle and she sat in the right rear passenger seat and was immediately driven to her home. JANE DOE never heard from DEFENDANT GARCIA again.

55. As a direct and proximate result of all of DEFENDANT GARCIA'S actions, JANE DOE was wrongfully and sexually assaulted and harassed and sustained injuries which were exclusively caused by the above-described actions and omissions of the individual Defendants, and other agents and employees.

FIRST CAUSE OF ACTION
(By Plaintiff JANE DOE Against Defendant GARCIA AND DOES 3-4 based on Unreasonable Search and Seizure)
[42 U.S.C. ' 1983]

56. Plaintiff JANE DOE hereby restates and incorporates by reference the foregoing paragraphs of this complaint as if set forth in full at this point and each and every part thereof with the same force and effect as though set out at length herein.

57. This cause of action is set forth herein to redress the deprivation, under color of statute, ordinance, regulation, policy, custom, practice, and/or usage, of rights, privileges, and/or immunities secured to JANE DOE by the Fourth Amendment to the Constitution of the United States, including, but not limited to, JANE DOE's right to be free from unreasonable governmental searches and seizures of her person including, but not limited to, unreasonable intrusions into JANE DOE's bodily integrity and other harassing and abusive behavior that rises to the level of unreasonable seizure. As set forth herein, DEFENDANT GARCIA'S conduct was unjustifiable by any government interest.

58. At all times mentioned herein, DEFENDANT GARCIA was employed by the COUNTY. The COUNTY provided DEFENDANT GARCIA with an official badge and identification cards which designated and described DEFENDANT GARCIA as an agent and employee of the COUNTY.

59. During all times mentioned herein, DEFENDANT GARCIA was acting in the course and scope of his employment with the COUNTY.

60. During all times mentioned herein, DEFENDANT GARCIA acted under color and pretense of law, and under color of the statutes, ordinances, regulations, policies, practices, customs, and usages of the COUNTY, and in so doing, deprived JANE DOE of the rights, privileges, and immunities secured to her by the Fourth Amendment to the United States Constitution and the laws of the United States.

61. In May of 2019, without a lawful reason or warrant, DEFENDANT GARCIA forced open her residence double door and entered JANE DOE's bedroom.

62. DEFENDANT GARCIA seized JANE DOE and ordered her to come with him. JANE DOE in fear for her liberty her life and possible retaliatory actions followed GARCIA's orders.

63. DEFENDANT GARCIA then walked JANE DOE to his vehicle. Once JANE DOE was inside his car he drove away after placing her in the backseat. JANE DOE also knew that she was under the custody and control of DEFENDANT GARCIA and not free to leave. At this point, JANE DOE was terrified of what DEFENDANT GARCIA would do to her. DEFENDANT GARCIA's actions were tantamount to an arrest to JANE DOE.

64. At no time during the course of these events did JANE DOE consent to DEFENDANT GARCIA's unreasonable seizure of her person, nor did she do anything to justify the unlawful search and seizure of her person by DEFENDANT GARCIA, and DEFENDANT GARCIA 's search and seizure of JANE DOE's person was unnecessary and unlawful. DEFENDANT GARCIA placed handcuffs on JANE DOE and escorted JANE DOE into a room where Defendants DOE 3, DOE 4, were located. DEFENDANT GARCIA AND DOES 3-4 then slapped, hit, sodomized, and raped JANE DOE.

65. DOE 3 grabbed JANE DOE's legs and bent them over her head (handle bar position) and began raping her vaginally. DOE 4 began raping her vaginally after the White male ejaculated on her. After DOE 4 was done ejaculating on her DEFENDANT GARCIA began raping her vaginally saying, "Did you think you were going to mess up my whole life and I wasn't going to hit it!" The men did not wear condoms. As one DEFENDANT JANE DOE raping her vaginally the others would take turns holding her legs and arms down laughing at her.

66. When DOE 3-4 were finished raping JANE DOE DEFENDANT GARCIA unhandcuffed her. DEFENDANT GARCIA led JANE DOE to a nearby bathroom. DEFENDANT GARCIA turned on the water to the bathtub. The bathtub was white with a fixed shower head. There was no soap or towels. The bathroom had a white

toilet and sink. DEFENDANT GARCIA ordered her to wash herself. JANE DOE got into the bathtub and rinsed herself off and ordered to do so by DEFENDANT GARCIA.

67. Throughout the two incidents described in this Complaint, DEFENDANT GARCIA, unlawfully searched and seized JANE DOE. During these detentions, due to the actions, commands, and command presence of DEFENDANT GARCIA, JANE DOE was not free to leave.

68. Based upon all of the foregoing facts, as alleged in this Complaint, DEFENDANT GARCIA unreasonably searched and seized JANE DOE, as previously described, all of which constituted an unreasonable and unlawful search and seizure in violation of, and with callous disregard and deliberate indifference to, JANE DOE'S constitutional right to be free from unreasonable searches and seizures, and her right to be free from unreasonable intrusions into JANE DOE's bodily integrity and other harassing and abusive behavior that rises to the level of unreasonable seizure.

69. The individual defendants named herein, separately and in concert, acted willfully, knowingly, with reckless disregard and deliberate indifference to the known consequences of their acts and omissions, and purposefully with the intent to deprive JANE DOE of her federally protected rights and privileges, and did in fact violate

those rights and privileges, entitling JANE DOE to punitive and exemplary damages in an amount to be proven at the trial of this matter.

70. As a direct, legal and proximate result of the acts of Defendants, and each of them, as set forth herein, JANE DOE suffered severe emotional distress which has caused JANE DOE to sustain severe, serious and permanent injuries to her mind and body, and economic and non-economic damages in an amount to be shown according to proof and within the jurisdiction of this Court.

71. As a direct and proximate result of the aforementioned acts, JANE DOE has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, panic, depression, fear of police, anxiety, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life, all to her damage in a sum to be determined at trial. Additionally, JANE DOE has been forced to incur, and will incur, substantial amounts for attorneys' fees, investigation expenses, and other expenses in the prosecution of the above articulated violations.

72. JANE DOE is entitled to and hereby demands costs, attorneys' fees, and expenses pursuant to 42 U.S.C. 1988.

SECOND CAUSE OF ACTION
(By PLAINTIFF Against DEFENDANT GARCIA and DOES 3-4 Based on Unreasonable Intrusion of Privacy and Behavior the Shocks the Conscience) [42 U.S.C. ' 1983])

73. JANE DOE incorporates all previous allegations contained in this Complaint as though fully set forth herein.

74. This cause of action is set forth herein to redress the deprivation, under color of statute, ordinance, regulation, policy, custom, practice, and/or usage, of rights, privileges, and/or immunities secured to JANE DOE by the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States, including, but not limited to, JANE DOE's right to be free from arbitrary governmental intrusions into her privacy and free from police conduct that is so outrageous that it shocks the conscience. As set forth herein, DEFENDANT GARCIA'S conduct was unjustifiable by any government interest.

75. At all times mentioned herein, DEFENDANT GARCIA was employed by the COUNTY. The COUNTY provided DEFENDANT GARCIA with an official badge and identification cards which designated and described DEFENDANT GARCIA as an agent and employee of the COUNTY.

76. During all times mentioned herein, DEFENDANT GARCIA was acting in the course and scope of his employment with the COUNTY.

77. During all times mentioned herein, DEFENDANT GARCIA acted under color and pretense of law, and under color of the statutes, ordinances, regulations, policies, practices, customs, and usages of the COUNTY, and in so doing, deprived JANE DOE of the rights, privileges, and immunities secured to her by the Fourth Amendment to the United States Constitution and the laws of the United States.

78. On a day in July or August, 2019 at 2200 hours JANE DOE was in front of her residence at the mailbox. DEFENDANT GARCIA pulled up next to her in his silver Ford Flex and rolled down the right front passenger window and ordered her to get in his vehicle. She opened the right rear passenger door and got into the right rear passenger seat. This time JANE DOE had her purse with her with her cell phone in it. DEFENDANT GARCIA was clothed in a pair of blue jeans and yellow shirt. It is believed that DEFENDANT GARCIA drove straight to the same house in Hesperia, where DEFENDANT GARCIA had arrested and raped JANE DOE months before.

79. DEFENDANT GARCIA pulled straight into the garage and used a garage remote to open the garage. DEFENDANT GARCIA led JANE DOE to the same bedroom where the workout bench was and ordered her to strip. DEFENDANT GARCIA left but kept the bedroom door open. JANE DOE could hear voices she recognized as DOES 3 and 4. JANE DOE decided to turn her phone on and started audio recording, but her battery was low on her cell phone. JANE DOE hid her cell

phone in her purse. (A partial recording of the sexual assault and beating was recorded).

80. The three men entered the bedroom all completely naked. JANE DOE could not tell if the men were circumcised but they did not wear condoms. JANE DOE was not handcuffed this time.

81. There was no vaginal raping this time but all oral copulation and sodomy. The men took their turns placing their penises in JANE DOE's mouth and sodomizing her. JANE DOE said while one was in her mouth another would be sodomizing her while another held her down. JANE DOE was positioned all over the bedroom floor and workout bench in all sort of positions while being raped. The men slapped JANE DOE all over her body. JANE DOE could not fight back and was over powered by three grown men doing as they pleased with her. This time the bathroom light remained on but it was still dark in the bedroom.

82. DEFENDANT GARCIA's told JANE DOE she did a good job and he was proud of her calling her a good girl. DEFENDANT GARCIA's led JANE DOE to the made her take a bath presumably to destroy DNA evidence JANE DOE was in severe anal pain with bleeding. JANE DOE had to insert her fingers inside her anus to, "push everything back in." She had anal damage including the tearing of skin and internal

tissues. Her body was severely bruised and sore all over. JANE DOE stayed in the bathtub for a few minutes at DEFENDANT GARCIA's direction.

83. At no time during the course of these events did JANE DOE consent to DEFENDANT GARCIA's intrusions into her privacy. The conduct of DEFENDANT GARCIA is so outrageous that it shocks the conscience. JANE DOE did nothing to justify such behavior by DEFENDANT GARCIA, and DEFENDANT GARCIA 's conduct was unnecessary and unlawful and unjustifiable by any government interest.

84. At all times mentioned herein, DEFENDANT GARCIA acted under color and pretense of law, and under color of the statutes, ordinances, regulations, policies, practices, customs, and/or usages of the State of California and the COUNTY. DEFENDANT GARCIA deprived JANE DOE of her rights, privileges, and/or immunities secured to her by the Fourteenth Amendment to the Constitution of the United States and the laws of the United States, including, but not limited to, the right to be free from arbitrary governmental intrusion into her privacy and outrageous behavior that shocks the conscience.

85. JANE DOE had the right to be free from arbitrary governmental intrusion into her privacy and behavior that is so outrageous that it shocks the conscience, rights which are secured to JANE DOE by the Due Process Clause of the Fourteenth Amendment to the United States Constitution, and by 42 U.S.C. 1983. All of these

interests were implicated by the wrongful conduct of DEFENDANT GARCIA, which proximately caused severe injuries to JANE DOE.

86. JANE DOE is informed, believes, and thereupon alleges, that in unreasonably intruding into her privacy and by his outrageous behavior that shocks the conscience, as described in the foregoing paragraphs of this Complaint, DEFENDANT GARCIA acted outside the scope of his jurisdiction and without authorization of law, and acted willfully, maliciously, knowingly, with reckless disregard and callous indifference to the known consequences of his acts and omissions, and purposefully with the intent to deprive JANE DOE of her federally protected rights and privileges, and did in fact violate the aforementioned rights and privileges, thereby warranting punitive and exemplary damages against DEFENDANT GARCIA in an amount to be proven at the trial of this matter.

87. The individual defendants named herein, separately and in concert, acted willfully, knowingly, with reckless disregard and deliberate indifference to the known consequences of their acts and omissions, and purposefully with the intent to deprive JANE DOE of her federally protected rights and privileges, and did in fact violate those rights and privileges, entitling JANE DOE to punitive and exemplary damages in an amount to be proven at the trial of this matter.

88. As a direct, legal and proximate result of the acts of Defendants, and each

of them, as set forth herein, JANE DOE suffered severe emotional distress which has caused JANE DOE to sustain severe, serious and permanent injuries to her mind and body, and economic and non-economic damages in an amount to be shown according to proof and within the jurisdiction of this Court.

89. JANE DOE is entitled to and hereby demands costs, attorneys' fees, and expenses pursuant to 42 U.S.C. 1988.

THIRD CAUSE OF ACTION

(By PLAINTIFF Against COUNTY and DOES 5-10 for Monell/Failure to Supervise)

[42 USC 1983]

90. Plaintiff JANE DOE hereby restates and incorporates by reference the foregoing paragraphs of this complaint as if set forth in full at this point and each and every part thereof with the same force and effect as though set out at length herein.

91. DEFENDANT COUNTY and DOES 5-10, unknown policymakers had a duty to adequately train, supervise and discipline their probation officers in order to protect members of the public, including JANE DOE, from being harmed by rape, sodomy, and torture.

92. DEFENDANT COUNTY and DOES 5-10 had a duty to adequately train, supervise and discipline their probation officers in order to protect members of the public, including JANE DOE, from being harmed by such probation officers unnecessarily. Said defendants were deliberately indifferent to such duties and thereby proximately caused injury to JANE DOE as complained of herein.

93. WHEREFORE JANE DOE seeks relief as set forth below.

FOURTH CAUSE OF ACTION

(By PLAINTIFF Against DEFENDANT YBON CORTA for Failure to Supervise)

[42 USC 1983]

94. Plaintiff JANE DOE hereby restates and incorporates by reference the foregoing paragraphs of this complaint as if set forth in full at this point and each and every part thereof with the same force and effect as though set out at length herein.

95. The failure to act by DEFENDANT Probation Officer III CORTA deprived JANE DOE her rights under the laws of the United States and the United States Constitution.

96. The supervisory DEFENDANT CORTA directed his subordinate in failing to act, that deprived the PLAINTIFF of her rights by not terminating DEFENDANT

GARCIA and not recognizing his propensity for violence and sexual deviance after seeing evidence.

FIFTH CAUSE OF ACTION

(By PLAINTIFF Against COUNTY and DOES 5-10 for State Created Danger [42 USC 1983]

97. Plaintiff JANE DOE hereby restates and incorporates by reference the foregoing paragraphs of this complaint as if set forth in full at this point and each and every part thereof with the same force and effect as though set out at length herein.

98. In this case, JANE DOE alleges that the Defendants deprived plaintiff of her rights under the Fourteenth Amendment to the Constitution when DEFENDANT GARCIA was texting jane doe extremely dangerous and illegal texts, attempting to coerce her to engage in forced sexual acts. JANE DOE reported that information to Detective Kuntzman who summoned Internal Affairs to investigate. JANE DOE was filing a police report / grievance.

99. JANE DOE provided text information and did provide Detective Kuntzman and the two IA to read obtain the phone number and messages DEFENDANT had sent that JANE DOE.

100. The following Tuesday DEFENDANT RUTLEDGE and Defendants DOE 1 and DOE 2 contacted JANE DOE at her residence.

101. DEFENDANT RUTLEDGE and DOES 1 and 2 asked to speak with JANE DOE privately. DOE 2 handed JANE DOE a telephone with DEFENDANT GARCIA on the line on the line who informed her to deny and texts and not to text him (GARCIA) because IA was investigating him (GARCIA) for inappropriate texting. DEFENDANT GARCIA ordered JANE DOE to tell DEFENDANT RUTLEDGE that JANE DOE did not have to report on Friday.

102. It is believed that DEFENDANT RUTLEDGE and DOE 1 and DOE 2 were present to interfere with JANE DOE's claim against DEFENDANT GARCIA.

103. The three Defendants RUTHLEDGE and DOES 1 and 2, were present to intimidate and scare JANE DOE. Each Defendant acted under color of authority.

104. The threat delivered to JANE DOE prevented I.A. from seeing any text and scared JANE DOE from pursuing additional complaints against DEFENDANT GARCIA.

105. Each probation officer present, DOE 1, DOE 2, and RUTHLEDGE acted in total disregard to the obvious danger of DEFENDANT GARCIA. Defendants acted with deliberate indifference.

106. The prohibition and exclusion of the text messages hid evidence from I.A. and put DEFENDANT GARCIA on notice JANE DOE was reporting his illegal conduct.

107. DEFENDANT RUTLEDGE and Defendant Does 1 and 2 were present to interfere with her claim against DEFENDANT GARCIA.

108. Under the Fourteenth Amendment, a person has the constitutional right to be free from a government employee affirmatively placing that person in a position of actual, particularized danger (or in a situation of actual, particularized danger that is more dangerous than the position that the person already faced) if the government employee acted with deliberate indifference to a known or obvious danger.

109. In order to prove the defendant[s] deprived JANE DOE of this Fourteenth Amendment right, the Plaintiff must prove the additional elements by a preponderance of the evidence.

SIXTH CAUSE OF ACTION

(By PLAINTIFF Against All Defendants for Ralph's Civil Rights Act

[Violation of Cal. Civ Code 51.7]

110. Plaintiff repeats and realleges by reference each and every allegation contained hereinabove and incorporates the same herein as through fully set forth herein.

111. All claims asserted herein against the DEFENDANT COUNTY are presented pursuant to COUNTY'S vicarious liability for acts and omission of municipal employees undertaken in the course and scope of their employment pursuant to California Government Code Section 815.2(a) and 820(a). Additionally, Defendants COUNTY and DOES 1 through 10 are vicariously liable for the acts alleged herein committed by DEFENDANT GARICA pursuant to *Mary M. City of Los Angeles*, 54 Cal. 3d 202, and its progeny, holding "that when, as in this case, a police officer on duty misuses his official authority by [engaging in sexual misconduct with] a woman whom he has detained, the public entity that employs him can be held vicariously liable." *Mary M.* at 221.

112. Cal Civ. Code Section 51.7(a) states "all persons within the jurisdiction of this state have the right to be free from any violence, or intimidation by threat of violence, committed against this person or property because of political affiliation or on account of any characteristic listed or defined in subdivision (b) or (e) of Section 51… or because another person perceives them to have one or more of those characteristics."

113. At all times mentioned herein, JANE DOE had the right to be free from any violence, or intimidation by threat of violence, committed against her person on account of her sex.

114. As alleged hereinabove, each Defendant subjected JANE DOE to violence, and/or intimidation y threats of violence, against her person on account of her sex and/or acted to aid, incite and/or conspire with other Defendant(s) to deny JANE DOE her right to be free from any violence, or intimidation by threat of violence against per person on the account of her sex.

115. In doing so, each Defendant violated the civil rights of JANE DOE, as set forth in the Ralph Civil Rights Act, which is codified in Cal. Civ. Code Section 51.7.

116. As a direct and proximate result of Defendants' unlawful conduct as alleged hereinabove, JANE DOE has suffered physical injury, severe emotional distress, humiliation, embarrassment, and emotional distress and anxiety, all in an amount according to proof at trial.

117. As a direct and proximate result of Defendants' unlawful conduct as alleged hereinabove, JANE DOE has suffered economic harm and other consequential damages, all in an amount according to proof at trial.

118. The above aforementioned conduct by Defendants were willful, wanton, and malicious. At all relevant times, each Defendant a cited with the conscious disregard of JANE DOE's rights and feelings. Each Defendant also acted with the knowledge of or with reckless disregard for the fact his or her conduct was certain to cause injury and/or humiliation to the JANE DOE. JANE DOE is further informed and believes

that each Defendant intended to cause fear, physical injury and/or pain and suffering to her. By virtue of the foregoing, the JANE DOE is entitled to recover punitive and exemplary damages each Defendants according to proof at trial.

119. In addition to and/or in lieu of JANE DOE's election, JANE DOE is entitled to receive and hereby seeks statutory damages pursuant to Cal. Civ. Code Section 52(b), including actual and exemplary damages.

120. Pursuant to Cal. Civ. Code Section 52(b)(3), JANE DOE has incurred and will continue to incur, attorneys'' fees in the prosecution of this action and therefore demand such reasonable attorneys' fees and costs as set by the Court.

SEVENTH CAUSE OF ACTION

(By PLAINTIFF Against Defendant GARCIA and DOES 3-4 for Assault)

121. Plaintiff repeats and realleges by reference each and every allegation contained hereinabove and incorporates the same herein as though fully set forth herein.

122. All claims asserted herein against the DEFENDANT COUNTY are presented pursuant to COUNTY'S vicarious liability for acts and omission of municipal employees undertaken in the course and scope of their employment pursuant to California Government Code Section 815.2(a) and 820(a). Additionally, Defendants COUNTY and DOES 1 through 10 are vicariously liable for the acts

alleged herein committed by DEFENDANT GARCIA pursuant to *Mary M. City of Los Angeles*, 54 Cal. 3d 202, and its progeny, holding "that when, as in this case, a police officer on duty misuses his official authority by [engaging in sexual misconduct with] a woman whom he has detained, the public entity that employs him can be held vicariously liable." *Mary M.* at 221.

123. As alleged hereinabove, each Defendant conspired and/or aided and abetted the other to assault JANE DOE. Specifically, by forcing Plaintiff to remain at Defendant's residence, denying her access to her phone, falsely imprisoning her in one of the bedrooms, demanding she engage in sexual activity with Defendants, and displaying guns to intimidate her, Defendants intended to cause Plaintiff apprehension of an imminent harmful and offensive contact with her person.

124. As a result of Defendants' acts, JANE DOE was in fact, placed in great apprehension of imminent harmful and offensive contact with her person.

125. In performing the acts alleged hereinabove, Defendants acted with the intent of making contact with JANE DOE's person.

126. At no time did JANE DOE consent to any of the acts by Defendants as alleged hereinabove.

127. Defendants' conduct as described above, caused JANE DOE to be apprehensive that Defendants would subject her to further intentional invasions of her

right to be free from offensive and harmful contact and demonstrated that at all times material herein, Defendants had a present ability to subject her to an intentional offensive and harmful touching.

128. As a direct and proximate result of Defendants' unlawful conduct as alleged hereinabove, JANE DOE has suffered physical injury, severe emotional distress, humiliation, embarrassment, mental and emotional distress and anxiety, and economic harm, all in an amount according to proof at trial.

129. The aforementioned conduct by Defendants was willful, wanton, and malicious. At all relevant times, Defendants acted with conscious disregard of the JANE DOE's rights and feelings. Defendants also acted with the knowledge of or with reckless disregard for the fact that their conduct was certain to cause injury and/or humiliation to the JANE DOE. JANE DOE is further informed and believes that Defendants intended to cause fear, physical injury and/or pain and suffering to the JANE DOE. By virtue of the foregoing, JANE DOE is entitled to recover punitive and exemplary damages from Defendants according to proof at trial.

EIGHTH CAUSE OF ACTION

(By PLAINTIFF Against DEFENDANT GARCIA, and DOES 3-4 for Battery [Cal. Gov't Code §§ 815.2(a), 820(a); Cal. Civ. Code § 43])

130. Plaintiff repeats and realleges by reference each and every allegation contained hereinabove and incorporates the same herein as though fully set forth herein.

131. All claims asserted herein against the DEFENDANT COUNTY are presented pursuant to COUNTY'S vicarious liability for acts and omission of municipal employees undertaken in the course and scope of their employment pursuant to California Government Code Section 815.2(a) and 820(a). Additionally, Defendants COUNTY and DOES 1 through 10 are vicariously liable for the acts alleged herein committed by DEFENDANT GARCIA pursuant to *Mary M. City of Los Angeles*, 54 Cal. 3d 202, and its progeny, holding "that when, as in this case, a police officer on duty misuses his official authority by [engaging in sexual misconduct with] a woman whom he has detained, the public entity that employs him can be held vicariously liable." *Mary M.* at 221.

132. As alleged hereinabove, each Defendant aided, abetted and/or conspired to sexually batter JANE DOE. In performing the acts described herein, Defendants acted with the intent to make a harmful and offensive contact with JANE DOE's person.

133. Pursuant to the above conspiracy and/or Defendant acting to aid and abet the other Defendants, DEFENDANTS GARCIA and DOES 3-4 did, in fact, bring themselves into offensive and unwelcome contact with JANE DOE as described hereinabove.

134. At all relevant times, JANE DOE found the contact by DEFENDANT GARCIA and DOES 3-4 to be offensive to her person and dignity. At no time did JANE DOE consent to any of the acts by DEFENDANT GARCIA or DOES 3-4 alleged hereinabove.

135. As a result of Defendants' acts as hereinabove alleged, JANE DOE was physically harmed and/or experienced offensive contact with her person.

136. As a direct and proximate result of Defendants' unlawful conduct as alleged hereinabove, JANE DOE has suffered physical injury, severe emotional distress, humiliation, embarrassment, mental and emotional distress and anxiety, economic harm and other consequential damages, all in an amount according to proof at trial.

NINTH CAUSE OF ACTION

(By PLAINTIFF Against Defendant GARCIA and DOE 3-4 for Sexual Battery)

137. Plaintiff repeats and realleges by reference each and every allegation contained hereinabove and incorporates the same herein as though fully set forth herein.

138. All claims asserted herein against the DEFENDANT COUNTY are presented pursuant to COUNTY'S vicarious liability for acts and omission of municipal employees undertaken in the course and scope of their employment pursuant to California Government Code Section 815.2(a) and 820(a). Additionally,

Defendants COUNTY and DOES 1 through 10 are vicariously liable for the acts alleged herein committed by DEFENDANT GARCIA pursuant to *Mary M. City of Los Angeles*, 54 Cal. 3d 202, and its progeny, holding "that when, as in this case, a police officer on duty misuses his official authority by [engaging in sexual misconduct with] a woman whom he has detained, the public entity that employs him can be held vicariously liable." *Mary M.* at 221.

139. Cal. Civ. Code Section 1708.5(a) provides: A person commits a sexual battery who DOES any of the following: (1) acts with the intent to cause a harmful or offensive contact with an intimate part of another, and a sexually offensive contact with that person directly or indirectly results. (2) Acts with the intent to cause a harmful or offensive contact with another by use of his or her intimate part, and a sexually offensive contact with that person directly or indirectly results. (3) Acts to cause an imminent apprehension of the conduct described in paragraph (1) or (2), and a sexually offensive contact with that person directly or indirectly results.

140. Cal. Civ. Code Section 1708.5(d) defines "intimate part" as the sexual organ, anus, groin, or buttocks of any person, or the breast of a female.

141. Cal. Civ. Code Section 1708.5(f) defines "offensive contact" to mean contact that offends a reasonable sense of personal dignity.

142. Each Defendant conspired and/or aided and abetted the other to hold Plaintiff against her will by, amongst many things, depriving her of her phone, and restraining JANE DOE, all in furtherance of sexually battering and sexually assaulting her at 's residence.

143. JANE DOE alleges that pursuant to the above conspiracy, DEFENDANT GARCIA and DOES 3-4 each committed acts of civil sexual battery in violation of Cal. Civ. Code Section 1708.5, DEFENDANT GARCIA and DOES 3-4 each willfully, maliciously, intentionally, and without the consent of JANE DOE subjected her to the forceful, harmful and/or offensive touching of JANE DOE's breasts, buttocks, and/or vagina, including viciously raping her by way of vaginal penetration and forcing her to perform oral sex against her will, without her consent, and in spite of her express objection.

144. As a direct and/or proximate result of Defendants' unlawful conduct as alleged hereinabove, JANE DOE has suffered physical injury, severe emotional distress, humiliation, embarrassment, mental and emotional distress and anxiety, all in an amount according to proof at trial.

145. As a direct and proximate result of Defendants' unlawful conduct as alleged hereinabove, JANE DOE has suffered economic harm, loss of earnings, and other damages, in an amount according to proof.

146. The aforementioned conduct by Defendants was willful, wanton, and malicious. At all relevant times, Defendants acted with conscious disregard of the JANE DOE's rights and feelings. Defendants also acted with the knowledge of or with reckless disregard for the fact that their conduct was certain to cause injury and/or humiliation to the JANE DOE. JANE DOE is further informed and believes that Defendants intended to cause fear, physical injury and/or pain and suffering to the JANE DOE. By virtue of the foregoing, the JANE DOE is entitled to recover punitive and exemplary damages from Defendants according to proof at trial.

TENTH CAUSE OF ACTION

(By PLAINTIFF Against Defendants GARCIA and DOES 3-4 for Gender Violence in Violation of Cal. Civ § 52.4)

147. PLAINTIFF restates and incorporates by reference the foregoing paragraphs of this Complaint as if set forth in full at this point.

148. All claims asserted herein against the DEFENDANT COUNTY are presented pursuant to COUNTY's vicarious liability for acts and omission of municipal employees undertaken in the course and scope of their employment pursuant to California Government Code Section 815.2(a) and 820(a). Additionally, Defendants COUNTY and DOES 1 through 10 are vicariously liable for the acts alleged herein committed by DEFENDANT GARCIA pursuant to *Mary M. City of*

Los Angeles, 54 Cal. 3d 202, and its progeny, holding "that when, as in this case, a police officer on duty misuses his official authority by [engaging in sexual misconduct with] a woman whom he has detained, the public entity that employs him can be held vicariously liable." *Mary M.* at 221.

149. Cal. Civ. Code Section 52.4(c) defines "gender violence" as (1) one or more acts that would constitute a criminal offense under state law that has an element the use, attempted use, or threatened use of physical force against the person or property of another, committed at least in part based on the gender of the victim, whether or not those acts have resulted in criminal complaints, charges, prosecution or conviction. (2) A physical intrusion or physical invasion of a sexual nature under coercive conditions, whether or not those acts have resulted in criminal charges, complaints, prosecution or conviction.

150. As alleged hereinabove, on or about May 25, 2019 and on or about June 2, 2019 and July-August 2019 each Defendant acted to aid, abet, and/or conspire with the other to violate Cal. Civ. Code Section 52.4. The Defendants committed acts of gender violence upon the JANE DOE through the use, attempted use, or threatened use of physical force against her person, committed at least in part based on JANE DOE's gender.

151. As alleged hereinabove, on or about May 25, 2019-June 2, 2019 and July-August 2019, each Defendant acted to aid, abet, and/or conspire with the other to violate Cal.Civ Code Section 52.4 so that he or she engaged in a physical intrusion or physical invasion of a sexual nature under coercive conditions.

152. As a direct result of Defendants'' unlawful conduct as alleged hereinabove, JANE DOE has suffered physical injury, severe emotional distress, humiliation, embarrassment, mental and emotional distress and anxiety, all in an amount according to proof at trial.

153. The aforementioned conduct by Defendants were willful, wanton, and malicious. At all relevant times, each Defendant acted with conscious disregard of JANE DOE's rights and feelings. Each Defendant also acted with the knowledge of with reckless disregard for the fact that his or her conduct was certain to cause injury and/or humiliation to the JANE DOE. JANE DOE is further informed and believes that each Defendant intended to cause fear, physical injury and/or pain and suffering to the JANE DOE. By virtue of the foregoing, the JANE DOE is entitled to recover punitive and exemplary damages from Defendants according to proof at trial.

154. JANE DOE has incurred, and will continue to incur, attorneys' fees in the prosecution of this action and therefore demand such reasonable attorneys' fees and costs as set by this Court.

ELEVENTH CAUSE OF ACTION

(By PLAINTIFF Against All Defendants for Bane Act)

155. Plaintiff repeats and realleges by reference each and every allegation contained hereinabove and incorporates the same herein as though fully set forth herein.

156. All claims asserted herein against the DEFENDANT COUNTY are presented pursuant to COUNTY'S vicarious liability for acts and omission of municipal employees undertaken in the course and scope of their employment pursuant to California Government Code Section 815.2(a) and 820(a). Additionally, Defendants COUNTY and DOES 1 through 10 are vicariously liable for the acts alleged herein committed by DEFENDANT GARCIA pursuant to *Mary M. City of Los Angeles*, 54 Cal. 3d 202, and its progeny, holding "that when, as in this case, a police officer on duty misuses his official authority by [engaging in sexual misconduct with] a woman whom he has detained, the public entity that employs him can be held vicariously liable." *Mary M.* at 221.

157. Civ. Code § 52.1, the Bane Act, provides that it is unlawful to interfere with the exercise or enjoyment of any rights under the Constitution and laws of this state and the United states by use or attempted use of threats, intimidation or coercion.

158. Cal. Civ. Code §§ 51.7 and 52.4 guarantee the rights to persons in California

to be free from assault, battery, and/or violence or threats of violence based on his or her sex.

159. Cal. Civ. Code § 43 guarantees the right of every person the right of protection from bodily restraint or harm and personal insult.

160. As alleged hereinabove, Defendants intentionally interfered with or attempted to interfere with JANE DOE's clearly established rights guaranteed under United States and California laws, including but not limited to Plaintiffs right of protection from battery, assault, false imprisonment, gender violence, and rape by threats, intimidation, and coercion.

161. Defendants conspired, aided or incited each other to threaten, intimidate and coerce JANE DOE by, among many things, holding JANE DOE at the Hesperia residence against her will, depriving her of her phone, demanding that she perform sexual acts, and restraining JANE DOE, all in furtherance of repeatedly sexually battering and sexually assaulting her at the Hesperia residence.

162. As a direct and proximate result of Defendants' unlawful conduct as alleged hereinabove, JANE DOE has suffered physical injury, severe emotional distress, humiliation, embarrassment, mental and emotional distress and anxiety, all in an amount according to proof at trial.

163. As a direct and proximate result of Defendants' unlawful conduct as alleged

hereinabove, JANE DOE has suffered economic harm and other consequential damages, all in an amount according to proof at trial.

164. The aforementioned conduct by Defendants were willful, wanton, and malicious. At all relevant times, each Defendant acted with conscious disregard of Plaintiffs rights and feelings. Each Defendant also acted with the knowledge of or with reckless disregard for the fact that his or her conduct was certain to cause injury and/or humiliation to the JANE DOE. JANE DOE is further informed and believes that each Defendant intended to cause fear, physical injury and/or pain and suffering to the JANE DOE. By virtue of the foregoing, the JANE DOE is entitled to recover punitive and exemplary damages from Defendants according to proof at trial.

165. In addition to and/or in lieu of Plaintiffs election, JANE DOE is entitled to receive and hereby seeks statutory damages pursuant to Cal. Civ. Code § 52(b), including actual and exemplary damages.

166. Pursuant to Cal. Civ. Code § 52(b)(3), JANE DOE has incurred, and will continue to incur, attorneys' fees in the prosecution of this action and therefore demands such reasonable attorneys' fees and costs as set by the Court.

TWELTH CAUSE OF ACTION

(By PLAINTIFF Against GARCIA, RUTLEDGE AND DOES 1-4 for Intentional Infliction of Emotional Distress)

167. Plaintiff repeats and realleges by reference each and every allegation contained hereinabove and incorporates the same herein as though fully set forth herein.

168. All claims asserted herein against the DEFENDANT COUNTY are presented pursuant to COUNTY'S vicarious liability for acts and omission of municipal employees undertaken in the course and scope of their employment pursuant to California Government Code Section 815.2(a) and 820(a). Additionally, Defendants COUNTY and DOES 1 through 10 are vicariously liable for the acts alleged herein committed by DEFENDANT GARCIA pursuant to *Mary M. City of Los Angeles*, 54 Cal. 3d 202, and its progeny, holding "that when, as in this case, a police officer on duty misuses his official authority by [engaging in sexual misconduct with] a woman whom he has detained, the public entity that employs him can be held vicariously liable." *Mary M.* at 221.

169. Defendants knew or should have known that JANE DOE did not want to engage in any sexual activity with them. Each Defendant conspired and/or aided and abetted the other to hold her at 's residence against her will by, amongst many things, depriving her of her phone, barricading her in a room with Defendants, in order to sexually batter and sexually assault her prior to permitting her to leave 's residence.

170. Defendants' knowing disregard for the safety of JANE DOE and deliberate

failure to monitor or control their behavior caused JANE DOE to be repeatedly sexually battered and assaulted.

171. Defendants' conduct was extreme and outrageous. Defendants acted with reckless disregard for Plaintiffs rights and feelings, and with deliberate indifference to the certainty that JANE DOE would suffer emotional distress.

172. As a direct and proximate result of Defendants' actions, JANE DOE has suffered and will continue to suffer severe mental anguish, humiliation, pain, severe emotional distress and physical distress. The PLAINTIFF is entitled to general and special damages according to proof at trial.

173. JANE DOE is informed and believes, and based upon such information and belief alleges, that the outrageous conduct of the Defendants described above was performed with conscious disregard for her rights and feelings. As a result, JANE DOE is entitled to punitive or exemplary damages from all defendants in a sum according to proof at trial.

THIRTEEN CAUSE OF ACTION

(By PLAINTIFF Against COUNTY and DOES 5-10 for Negligence)

174. Plaintiff incorporates and realleges all of the previous allegations as though fully set forth herein.

175. Upon information and belief, DEFENDANT GARCIA, while on duty, sexually assaulted other woman in the custody of the COUNTY before the incident described herein. JANE DOE is informed and believes that DEFENDANT GARCIA was for engaging in sexual contact with several other women on probation. JANE DOE is further informed and believes that DEFENDANT GARCIA should have been charged with numerous felonies including violations of Penal Code 289 and 289.6.

176. As alleged above, DEFENDANT GARCIA was unfit and/or incompetent to perform the work for which he was hired and, more specifically, unfit to be in contact with women. JANE DOE is informed and believes and thereon alleges that, prior to the incident alleged herein, Defendants, and each of them, acting under color of their authority as officers and in the course and scope of their employment as such, committed similar acts of failure to supervise subordinates regarding deliberate indifference to the necessity to protect the public, to report officer wrongful conduct, and to assure that people were not subjected to sexual misconduct by officers, such as DEFENDANT GARCIA.

177. During, and prior to, the time period that DEFENDANT GARCIA engaged in negligent conduct toward JANE DOE, DEFENDANT COUNTY, including their employees, administrators and/or agents and DOES 1 through 10, were responsible for the hiring, training and supervision of Defendant's employees,

including DEFENDANT GARCIA. DEFENDANT COUNTY, including their employees, administrators and/or agents and DOES 1 through 10, ineffectively hired, trained, supervised and/or disciplined DEFENDANT GARCIA and/or failed entirely to train, supervise, discipline and/or discharge DEFENDANT GARCIA and thus are directly liable for JANE DOE's injuries caused by such negligent hiring, training and supervision.

178. At all times herein mentioned, and prior thereto, these Defendants had the duty to train, supervise, and instruct officers and other agents to ensure that they respected and did not violate federal constitutional, federal statutory, California constitutional, and California statutory rights of the public and specifically, vulnerable members of the public.

179. At all times herein mentioned, and prior thereto, these Defendants breached such duties by failing to train, supervise, and instruct officers and other agents to ensure that they respected and did not violate federal constitutional, federal statutory, California constitutional, and California statutory rights of the public and specifically, vulnerable members of the public.

180. Upon information and belief, DEFENDANT COUNTY, including their employees, administrators and/or agents and DOES 1 through 10, knew or reasonably should have known of DEFENDANT GARCIA's dangerous and exploitive

propensities and/or that DEFENDANT GARCIA was an unfit/incompetent agent. Nevertheless, DEFENDANT COUNTY, their employees, administrators and/or agents and DOES 1 through 10, negligently hired and/or retained DEFENDANT GARCIA in the position of trust and authority as a law enforcement officer, and authority figure, where he was able to commit the wrongful acts against JANE DOE. DEFENDANT COUNTY, including its employees, administrators and agents and DOES 1 through 10, failed to use reasonable care in investigating and supervising DEFENDANT GARCIA and negligently retained DEFENDANT GARCIA despite DEFENDANT GARCIA's dangerous propensities and unfitness. Defendants further failed to take reasonable measures to prevent future sexual misconduct against JANE DOE and others.

181. During the time period that DEFENDANT GARCIA engaged in negligent conduct toward JANE DOE, DEFENDANT COUNTY, including its employees, administrators and/or agents and DOES 1 through 10, were responsible for the hiring, training and supervision of Defendant's employees, including DEFENDANT GARCIA. DEFENDANT COUNTY, including its employees, administrators and/or agents and DOES 1 through 10, ineffectively hired, trained, supervised and/or disciplined DEFENDANT GARCIA and/or failed entirely to train,

supervise, discipline and/or discharge DEFENDANT GARCIA and thus, are directly liable for

182. JANE DOE's injuries caused by such negligent hiring, training and supervision Prior to or during the unlawful conduct by DEFENDANT GARCIA as alleged herein, JANE DOE is informed and believes that Defendants knew, had reason to know, or were otherwise on notice of the negligence and unlawful sexual conduct by DEFENDANT GARCIA. Indeed JANE DOE is informed and believes that DEFENDANT GARCIA committed similar unlawful conduct toward other woman prior to the incident with JANE DOE. JANE DOE is informed and believes that Defendants failed to take reasonable steps to supervise and/or discipline DEFENDANT GARCIA and failed to implement reasonable safeguards to avoid acts of unlawful sexual conduct in the future by DEFENDANT GARCIA, including, but not limited to, preventing or avoiding placement of DEFENDANT GARCIA in functions or environments in which contact with vulnerable members of the public was an inherent part of those functions or environments. Furthermore, JANE DOE is informed and believes that at no time during the periods of time alleged did Defendants have in place a system of procedure to supervise and/or monitor employees, volunteers, representatives, or agents to insure that they did not molest or abuse vulnerable members of the public in Defendants= care, including JANE DOE.

183. Additionally, Defendants, and each of them, had a duty to investigate their subordinates, and to instruct their subordinates to prevent similar acts to other persons, but failed to take steps to properly train, supervise, investigate or instruct officers and as a result JANE DOE was harmed by the failure to train, supervise, investigate or instruct.

184. As a direct, legal and proximate result of the acts of Defendants, and each of them, as set forth herein, JANE DOE suffered severe emotional distress which has caused JANE DOE to sustain severe, serious and permanent injuries to her mind and body, and economic and non-economic damages in an amount to be shown according to proof and within the jurisdiction of this Court.

185. As a direct and proximate result of the aforementioned acts, JANE DOE has suffered, and continues to suffer great pain of mind and body, shock, emotional distress, physical manifestations of emotional distress, panic, depression, fear of police, anxiety, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life, all to her damage in a sum to be determined at trial. Additionally, JANE DOE has been forced to incur, and will incur, substantial amounts for attorneys' fees, investigation expenses, and other expenses in the prosecution of the above articulated violations.

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PRAYER

WHEREFORE, PLAINTIFF pray judgment against Defendants and each of them as follows:

AS TO EACH CAUSE OF ACTION AS APPLICABLE.

1. For General Damages according to proof;

2. For Special damages according to proof;

3. For Exemplary damages as provided by law; in an amount to be proved against each individual Defendant;

4. For Attorney's Fees pursuant to under U.S.C. 1983 and 1988;

5. Punitive damages(nongovernmental)

6. For Costs of suit;

7. For such other and further relief as the Court may deem proper

Dated: 6/2/2020

/s/James Terrell
James S. Terrell
Attorney for PLAINTIFF

Dated: 6/2/2020

/s/Sharon J. Brunner
Sharon J. Brunner
Attorney for PLAINTIFF

JURY DEMAND

PLAINTIFF hereby demands a trial by jury.

Dated: 6/2/2020

/s/James Terrell
James S. Terrell
Attorney for PLAINTIFF

Dated: 6/2/2020

/s/Sharon J. Brunner
Sharon J. Brunner
Attorney for PLAINTIFF