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FOR COURT USE ONLY

FILED  
 SUPERIOR COURT - STOCKTON  
 MAY 17 PM 5:08  
 DEBRA L. WALTERS, PLAINTIFF  
 DEPT. OF CORRECTIONS & REHABILITATION, DEFENDANT

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Joaquin  
 STREET ADDRESS: 222 E. Weber Ave.  
 MAILING ADDRESS: 222 E. Weber Ave.  
 CITY AND ZIP CODE: Stockton, CA 95202  
 BRANCH NAME: STOCKTON Branch

DEPUTY  
 JUDGE CARTER P. HOLLY IN  
 DEPARTMENT 10B FOR ALL PURPOSES,  
 INCLUDING TRIAL

PLAINTIFF: Debra L. Walters

DEFENDANT: California Department of Corrections and Rehabilitation, California Health Care Facility, Warden Michael Martell,  
 DOES NOT TO 50 inclusive;

COMPLAINT—Personal Injury, Property Damage, Wrongful Death  
 AMENDED (Number):  
 Type (check all that apply):  
 MOTOR VEHICLE  OTHER (specify): Gen. Negligence  
 Property Damage  Wrongful Death  
 Personal Injury  Other Damages (specify): Fraud:  
 Intentional or Negligent Misrepresentation.

THIS CASE HAS BEEN ASSIGNED TO  
 JUDGE CARTER P. HOLLY IN  
 DEPARTMENT 10B FOR ALL PURPOSES,  
 INCLUDING TRIAL

#435-169 725

Jurisdiction (check all that apply):  
 ACTION IS A LIMITED CIVIL CASE  
 Amount demanded  does not exceed \$10,000  exceeds \$10,000, but does not exceed \$25,000  
 ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000)  
 ACTION IS RECLASSIFIED by this amended complaint  
 from limited to unlimited  
 from unlimited to limited

CASE NUMBER:  
 STK-CV- UP1 -2017 5002

1. Plaintiff (name or names): Debra L. Walters  
 alleges causes of action against defendant (name or names): California Department of Corrections and Rehabilitation, California Health Care Facility, Warden Michael Martell
2. This pleading, including attachments and exhibits, consists of the following number of pages: Six (6)
3. Each plaintiff named above is a competent adult
  - a.  except plaintiff (name):
    - (1)  a corporation qualified to do business in California
    - (2)  an unincorporated entity (describe):
    - (3)  a public entity (describe):
    - (4)  a minor  an adult
      - (a)  for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
      - (b)  other (specify):
    - (5)  other (specify):
  - b.  except plaintiff (name):
    - (1)  a corporation qualified to do business in California
    - (2)  an unincorporated entity (describe):
    - (3)  a public entity (describe):
    - (4)  a minor  an adult
      - (a)  for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
      - (b)  other (specify):
    - (5)  other (specify):

Information about additional plaintiffs who are not competent adults is shown in Attachment 3.

SHORT TITLE: Walters vs. California Department of Corrections and Rehabilitation, et al.

CASE NUMBER:

4.  Plaintiff (name):  
is doing business under the fictitious name (specify):

and has complied with the fictitious business name laws.

5. Each defendant named above is a natural person  
a.  except defendant (name): California Department of Corrections and Rehabilitation

- (1)  a business organization, form unknown
- (2)  a corporation
- (3)  an unincorporated entity (describe):

- (4)  a public entity (describe): Department of the State of California
- (5)  other (specify):

c.  except defendant (name):

- (1)  a business organization, form unknown
- (2)  a corporation
- (3)  an unincorporated entity (describe):

- (4)  a public entity (describe):
- (5)  other (specify):

b.  except defendant (name): California Health Care Facility

- (1)  a business organization, form unknown
- (2)  a corporation
- (3)  an unincorporated entity (describe):

- (4)  a public entity (describe): A facility operated by the State of California
- (5)  other (specify):

d.  except defendant (name):

- (1)  a business organization, form unknown
- (2)  a corporation
- (3)  an unincorporated entity (describe):

- (4)  a public entity (describe):
- (5)  other (specify):

Information about additional defendants who are not natural persons is contained in Attachment 5.

6. The true names of defendants sued as Does are unknown to plaintiff.

a.  Doe defendants (specify Doe numbers): 1 through 30 were the agents or employees of other named defendants and acted within the scope of that agency or employment.

b.  Doe defendants (specify Doe numbers): 31 through 50 are persons whose capacities are unknown to plaintiff.

7.  Defendants who are joined under Code of Civil Procedure section 382 are (names):

8. This court is the proper court because

- a.  at least one defendant now resides in its jurisdictional area.
- b.  the principal place of business of a defendant corporation or unincorporated association is in its jurisdictional area.
- c.  injury to person or damage to personal property occurred in its jurisdictional area.
- d.  other (specify):

9.  Plaintiff is required to comply with a claims statute, and

- a.  has complied with applicable claims statutes, or
- b.  is excused from complying because (specify):

SHORT TITLE: Walters vs. California Department of Corrections and Rehabilitation, et al.	CASE NUMBER:
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10. The following causes of action are attached and the statements above apply to each (each complaint must have one or more causes of action attached):

- a.  Motor Vehicle
- b.  General Negligence
- c.  Intentional Tort
- d.  Products Liability
- e.  Premises Liability
- f.  Other (specify): Fraud: Intentional or Negligent Misrepresentation.

11. Plaintiff has suffered

- a.  wage loss
- b.  loss of use of property
- c.  hospital and medical expenses
- d.  general damage
- e.  property damage
- f.  loss of earning capacity
- g.  other damage (specify): Loss of consortium, community, affection, attention, guidance, and moral support by sister and sole next of kin, Debra L. Walters. Plaintiff is qualified to bring this claim pursuant to C.C.P. 377.60(a), as the person entitled to the property of the subject decedent by intestate succession.

12.  The damages claimed for wrongful death and the relationships of plaintiff to the deceased are

- a.  listed in Attachment 12.
- b.  as follows:  
 Loss of consortium, community, affection, attention, guidance, and moral support by sister and sole next of kin, Debra L. Walters. Plaintiff is qualified to bring this claim pursuant to C.C.P. 377.60(a), as the person entitled to the property of the subject decedent, Steven Walters, by intestate succession.

13. The relief sought in this complaint is within the jurisdiction of this court.

14. Plaintiff prays for judgment for costs of suit; for such relief as is fair, just, and equitable; and for

- a. (1)  compensatory damages
  - (2)  punitive damages
- The amount of damages is (in cases for personal injury or wrongful death, you must check (1)):
- (1)  according to proof
  - (2)  in the amount of: \$

15.  The paragraphs of this complaint alleged on information and belief are as follows (specify paragraph numbers):  
 10 f. The plaintiff herein is informed and believes that she was intentionally or negligently misrepresented to, and misinformed, by the defendants' Public Information Officer concerning the nature and cause of her brother's death.

Date: April 17, 2017

Frank T. Stanley, Esq.  
 (TYPE OR PRINT NAME)

  
 (SIGNATURE OF PLAINTIFF OR ATTORNEY)

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Corrections and Rehabilitation, et al.

CASE NUMBER:

First \_\_\_\_\_ CAUSE OF ACTION—General Negligence

(number)

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ATTACHMENT TO  Complaint  Cross - Complaint

(Use a separate cause of action form for each cause of action.)

GN-1. Plaintiff (name): Debra L. Walters

alleges that defendant (name): California Department of Corrections and  
Rehabilitation, California Health Care Facility, Warden Michael Martell,

Does 01 to 50 inclusive;

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant  
negligently caused the damage to plaintiff

on (date): August 6, 2016

at (place): California Health Care Facility, 7707 Austin Rd., Stockton, CA  
95213.

(description of reasons for liability):

Defendants, California Department of Corrections and Rehabilitation, California Health Care Facility, Warden Michael Martell, Does 1 through 50, and each of them, breached their duty of care and the special relationship that exists between a jailer and prisoner to protect the prisoner from foreseeable harm inflicted by a third party, by failing to properly guard, maintain the safety of, oversee, prevent harm to, furnish the necessary and adequate protection from attack, properly secure, and properly supervise, David C. Cobb, an inmate at the California Health Care Facility in Stockton, California, who was within the custody of the defendants at the time of his death on August 6, 2016.

Due to the breach of duty listed above, defendants California Department of Corrections and Rehabilitation, California Health Care Facility, Warden Michael Martell, Does 1 through 50, and each of them, have caused the injuries and damages complained of by plaintiff herein, who is the decedant's sister and sole next of kin.

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Second                      CAUSE OF ACTION—Fraud  
(number)

ATTACHMENT TO  Complaint  Cross-Complaint

*(Use a separate cause of action form for each cause of action.)*

FR-1. Plaintiff *(name)*: Debra L. Walters

alleges that defendant *(name)*: California Department of Corrections and Rehabilitation, California Health Care Facility, Warden Michael Martell, and Does 1 to 50 inclusive,  
 on or about *(date)*: August 10, 2016 defrauded plaintiff as follows:

FR-2.  **Intentional or Negligent Misrepresentation**

a. Defendant made representations of material fact  as stated in Attachment FR-2.a  as follows:  
 On August 10, 2016, Lieutenant Lee, a Public Information Officer of the California Department of Corrections and Rehabilitation (CDCR) and California Health Care Facility, alleged and stated to plaintiff that it was the position of CDCR and the California Health Care Facility that inmate David C. Cobb's death was the result of a suicide.

b. These representations were in fact false. The truth was  as stated in Attachment FR-2.b  as follows:  
 David C. Cobb, who was blind, almost totally deaf, and wheelchair bound, was the victim of a homicide perpetrated by some person with access to his cell, who shoved various objects down his throat, including a cucumber, clothing, other cloth, plastic as such from a baggie, and Mr. Cobb's own walking cane.

c. When defendant made the representations,  
 defendant knew they were false, or  
 defendant had no reasonable ground for believing the representations were true.

d. Defendant made the representations with the intent to defraud and induce plaintiff to act as described in item FR-5. At the time plaintiff acted, plaintiff did not know the representations were false and believed they were true. Plaintiff acted in justifiable reliance upon the truth of the representations.

FR-3.  **Concealment**

a. Defendant concealed or suppressed material facts  as stated in Attachment FR-3.a  as follows:  
 David C. Cobb, a patient and inmate at California Health Care Facility in Stockton, was assaulted by some person with access to his cell, who shoved various foreign objects down his throat, causing his death by aspiration. These facts were concealed by Defendants to prevent further inquiry into his death and the lack of proper security measures in place at the California Health Care Facility.

b. Defendant concealed or suppressed material facts  
 defendant was bound to disclose.  
 by telling plaintiff other facts to mislead plaintiff and prevent plaintiff from discovering the concealed or suppressed facts.

c. Defendant concealed or suppressed these facts with the intent to defraud and induce plaintiff to act as described in item FR-5. At the time plaintiff acted, plaintiff was unaware of the concealed or suppressed facts and would not have taken the action if plaintiff had known the facts.

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and Rehabilitation, et al.

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SECOND

(number)

**CAUSE OF ACTION—Fraud**

FR-4.  **Promise Without Intent to Perform**

a. Defendant made a promise about a material matter without any intention of performing it  as stated in Attachment FR-4.a  as follows:

b. Defendant's promise without any intention of performance was made with the intent to defraud and induce plaintiff to rely upon it and to act as described in item FR-5. At the time plaintiff acted, plaintiff was unaware of defendant's intention not to perform the promise. Plaintiff acted in justifiable reliance upon the promise.

FR-5. In justifiable reliance upon defendant's conduct, plaintiff was induced to act  as stated in Attachment FR-5

as follows: Defendants California Department of Corrections and Rehabilitation, California Health Care Facility, Warden Michael Martell, Does 1 through 50, and each of them, led plaintiff Debra L. Walters to believe that her brother and next of kin, David C. Cobb, had committed suicide. In so doing, Ms. Walters was induced to inform the immediate members of her family about the alleged cause of her brother's death, which has caused the plaintiff added stress, extreme sadness, and embarrassment.

FR-6. Because of plaintiff's reliance upon defendant's conduct, plaintiff has been damaged  as stated in

Attachment FR-6  as follows: Defendants California Department of Corrections and Rehabilitation, California Health Care Facility, Warden Michael Martell, Does 1 through 50, and each of them, led plaintiff Debra L. Walters to believe that her brother and next of kin, David C. Cobb, had committed suicide. In so doing, Ms. Walters was induced to inform the immediate members of her family about the alleged cause of her brother's death, which has caused the plaintiff added stress, extreme sadness, and embarrassment.

Furthermore, in the month immediately following David C. Cobb's death, the plaintiff herein requested a copy of the incident report and any records within the possession of the defendants pertaining to David C. Cobb's injuries and death. To date, plaintiff has not received any records whatsoever from the defendants, and has been given no further assurances or indication that a detailed investigation of the circumstances of her brother's death has ever taken place. This lack of information, assistance, or common courtesy from the defendants has caused the plaintiff to suffer added stress, frustration, extreme sadness, and the inability to gain emotional closure from her brother's death.

The monetary amount of any stress-related medical expenses and general damages will be determined according to proof.

FR-7. Other: