

1 BARRETT S. LITT (No. 45527)  
E-mail: blitt@kmbllaw.com  
2 MARILYN E. BEDNARSKI (No. 105322)  
E-mail: mebednarski@kmbllaw.com  
3 DAVID S. McLANE (No.124952)  
E-mail: dmclane@kmbllaw.com  
4 CAITLIN S. WEISBERG (No. 262779)  
E-mail: cweisberg@kmbllaw.com  
5 KAYE, McLANE & BEDNARSKI  
6 975 East Green Street  
7 Pasadena CA 91106  
8 Telephone: (626) 844-7660  
9 Facsimile: (626) 844-7670

10 Wendy J. Koen (No. 255759)  
11 E-mail: wkoen.defender@gmail.com  
12 Law Office of Wendy J. Koen  
32818 Mira Street  
13 Menifee, California 92584  
14 Telephone: (858) 500-2300

15 Attorneys for Plaintiff WILLIAM J. RICHARDS

16  
17 **UNITED STATES DISTRICT COURT**  
18 **CENTRAL DISTRICT OF CALIFORNIA – EASTERN DIVISION**  
19

20 WILLIAM J. RICHARDS,

21 Plaintiff,

22 v.

23 CHARLES PICKETT, JOHN  
24 PARSONS, DONALD B.  
THORNTON, BONIFACIO C.  
25 ESPERANZA, JOHN CULTON,  
26 DAVID DUNN, NICHOLAS  
AGUILERA, JOSEPH BICK, RAY  
27 ANDREASEN, NABIL  
28 ATHANASSIOUS, ELI RICHMAN,

CASE NO.

**FIRST AMENDED COMPLAINT  
FOR DAMAGES**

- (1) Violation of Civil Rights –  
Individual Defendants (42 U.S.C. §  
1983)  
(2) *Monell* Claim for Violation of Civil  
Rights (42 U.S.C. § 1983)

**[DEMAND FOR JURY TRIAL]**

1 BALRAJ DHILLON, DEEPAK  
2 MEHTA, JOHN PRICE, CHAU, NOEL  
3 HUI, EDMUND KO, ARROWHEAD  
4 REGIONAL MEDICAL CENTER,  
5 COUNTY OF SAN BERNARDINO,  
6 and DOES 1 through 10, inclusive,

Defendants.

## 7 I. JURISDICTION AND VENUE

8 1. The Court has jurisdiction over the federal civil rights claims alleged  
9 herein pursuant to 28 U.S.C. §§ 1331 (federal question) and 28 U.S.C. § 1343 (civil  
10 rights).

11 2. Pursuant to 28 U.S.C. § 1391, venue lies in the Central District of  
12 California because a substantial part of the events or omissions giving rise to the  
13 claims occurred within the Central District of California and, upon information and  
14 belief, all of the Defendants are residents of the State of California, with at least one  
15 Defendant residing within the Central District of California.

## 16 II. PARTIES

17 3. Plaintiff WILLIAM J. RICHARDS ("Plaintiff") is an adult competent  
18 to bring this suit in this Court. Prior to his arrest, and at the time of the events  
19 described herein, he was a resident of the County of San Bernardino. Following his  
20 wrongful arrest, Plaintiff was detained and ultimately incarcerated. During such  
21 times, he was in the custody of the San Bernardino Sheriff's Department ("SBSD")  
22 and the California Department of Corrections and Rehabilitation ("CDCR").

23 4. At all relevant times during the years 2002 to 2004, Defendant  
24 CHARLES PICKETT, D.O., was the Chief Medical Officer and Health Care  
25 Manager at Centinela State Prison and an employee and/or agent of the CDCR  
26 acting under color of law, who was responsible for providing, supervising, and  
27 managing the medical care, attention, and treatment given to prisoners and for  
28

1 setting the policies, customs, and practices of Centinela State Prison. He is sued in  
2 his individual capacity.

3         5. At all relevant times during the years 2002-2004, Defendant JOHN  
4 PARSONS, MD, was the Chief Physician at Centinela State Prison and an employee  
5 and/or agent of the CDCR acting under color of law, who was responsible for  
6 providing, supervising, and managing the medical care, attention, and treatment  
7 given to prisoners and for setting the policies, customs, and practices of Centinela  
8 State Prison. He is sued in his individual capacity.

9         6. At all relevant times during the years 2002-2004, Defendant DONALD  
10 B. THORNTON, MD, was a staff physician at Centinela State Prison and an  
11 employee and/or agent of the CDCR acting under color of law, who was responsible  
12 for providing, supervising, and managing the medical care, attention, and treatment  
13 given to prisoners and for setting the policies, customs, and practices of Centinela  
14 State Prison. He is sued in his individual capacity.

15         7. At all relevant times during the years 2002-2004, Defendant  
16 BONIFACIO C. ESPERANZA, MD, was a staff physician at Centinela State Prison  
17 and an employee and/or agent of the CDCR acting under color of law, who was  
18 responsible for providing, supervising, and managing the medical care, attention,  
19 and treatment given to prisoners and for setting the policies, customs, and practices  
20 of Centinela State Prison. He is sued in his individual capacity.

21         8. At all relevant times during the years 2004-2006, Defendant JOHN W.  
22 CULTON, MD, was the Chief Medical Officer and Health Care Manager at  
23 Chuckawalla Valley State Prison and an employee and/or agent of the CDCR acting  
24 under color of law, who was responsible for providing, supervising, and managing  
25 the medical care, attention, and treatment given to prisoners and for setting the  
26 policies, customs, and practices of Chuckawalla Valley State Prison. He is sued in  
27 his individual capacity.

28         9. At all relevant times during the years 2004-2006, Defendant DAVID

1 DUNN, MD, was a staff physician at Chuckawalla Valley State Prison and an  
2 employee and/or agent of the CDCR acting under color of law, who was responsible  
3 for providing, supervising, and managing the medical care, attention, and treatment  
4 given to prisoners and for setting the policies, customs, and practices of Centinela  
5 State Prison. He is sued in his individual capacity.

6 10. During the years 2008-2016, Defendants NICHOLAS AGUILERA,  
7 MD, JOSEPH BICK, MD, and RAY ANDREASEN, MD, were the Chief Medical  
8 Officers and Health Care Managers at California Medical Facility and were  
9 employees and/or agents of the CDCR acting under color of law, who were  
10 responsible for providing, supervising, and managing the medical care, attention,  
11 and treatment given to prisoners and for setting the policies, customs, and practices  
12 of California Medical Facility. They are sued in their individual capacities.

13 11. At all relevant times during the years 2008-2010, Defendant NABIL  
14 ATHANASSIOUS, MD, was a physician and an employee and/or agent of the  
15 CDCR acting under color of law, who was responsible for providing, supervising,  
16 and managing the medical care, attention, and treatment given to prisoners and for  
17 setting the policies, customs, and practices of California Medical Facility. He is sued  
18 in his individual capacity.

19 12. At all relevant times during the years 2008-2010, Defendant ELI  
20 RICHMAN, MD, was a physician and an employee and/or agent of the CDCR  
21 acting under color of law, who was responsible for providing, supervising, and  
22 managing the medical care, attention, and treatment given to prisoners and for  
23 setting the policies, customs, and practices of California Medical Facility. He is sued  
24 in his individual capacity.

25 13. At all relevant times during the years 2008-2010, Defendant BALRAJ  
26 DHILLON, MD, was a physician and an employee and/or agent of the CDCR acting  
27 under color of law, who was responsible for providing, supervising, and managing  
28 the medical care, attention, and treatment given to prisoners and for setting the

1 policies, customs, and practices of California Medical Facility. He is sued in his  
2 individual capacity.

3 14. At all relevant times during the years 2008-2010, Defendant DEEPAK  
4 MEHTA, MD, was a physician and an employee and/or agent of the CDCR acting  
5 under color of law, who was responsible for providing, supervising, and managing  
6 the medical care, attention, and treatment given to prisoners and for setting the  
7 policies, customs, and practices of California Medical Facility. He is sued in his  
8 individual capacity.

9 15. Defendant COUNTY OF SAN BERNARDINO ("COUNTY") is, and  
10 at all times relevant hereto was, a duly authorized public entity or political  
11 subdivision, organized and existing under the laws of the State of California. The  
12 San Bernardino Sheriff's Department (hereinafter "SBSD") is, and at all relevant  
13 times was, an agency and subdivision of Defendant COUNTY. The COUNTY and  
14 SBSD are located within the State of California. At all relevant times, Defendant  
15 COUNTY and SBSD possessed the power and authority to adopt policies and  
16 prescribe rules, regulations and practices affecting the operation of the SBSD and  
17 the actions of employees of the SBSD, including customs, policies and/or practices  
18 relating to police tactics, methods, investigations, arrests, evidence, and discovery;  
19 as well as to personnel supervision, performance evaluation, internal investigations,  
20 discipline, records maintenance, and/or retention. Defendant COUNTY is sued as a  
21 local government entity under 42 U.S.C. § 1983 because its customs, policies and/or  
22 practices with regard to the operation of the SBSD were a moving force behind the  
23 constitutional violations claimed by Plaintiff herein.

24 16. At all relevant times during the period 2009-2013, ARROWHEAD  
25 REGIONAL MEDICAL CENTER ("ARMC"), its agents, officers, employees, and  
26 independent contractors, were an agent of the COUNTY and were under contract  
27 with COUNTY for the purpose of providing medical care and attention on behalf of  
28 the COUNTY to prisoners under the care and control of the COUNTY and CDCR.

1           17. At all relevant times during the period 2009-2013, Defendants JOHN  
2 PRICE, MD, CHAU, MD, NOEL HUI, MD, and EDMUND KO, MD, were  
3 physicians and employees and/or agents of ARMC, the COUNTY, and the CDCR  
4 acting under color of law, who were responsible for providing, supervising, and  
5 managing the medical care, attention, and treatment given to prisoners and for  
6 setting the policies, customs, and practices of San Bernardino County Jails. They are  
7 sued in their individual and official capacities.

8           18. Plaintiffs are ignorant of the true names and capacities of Defendant  
9 medical providers sued herein as DOES 1 through 10, inclusive, including the Chief  
10 Medical Officers and Medical Directors of Chuckawalla Valley State Prison,  
11 California Correctional Institution (Tehachapi), California Medical Facility, and the  
12 COUNTY during the relevant time periods. At present time, the true names and  
13 capacities of Defendants sued herein as DOES 1 through 10 are unknown to  
14 Plaintiff. Upon information and belief, the true names and capacities of DOE  
15 Defendants are contained in records, documents, and other discovery that is  
16 unavailable to Plaintiff and can only be ascertained through the discovery process.  
17 Upon information and belief, each of the DOE Defendants was in some manner  
18 responsible for the acts and omissions alleged herein, and Plaintiff will ask leave of  
19 this Court to amend the Complaint to allege such names and responsibility when  
20 that information is ascertained.

### 21 **III. GENERAL ALLEGATIONS**

22           19. At all relevant times, each and every Defendant was the agent and/or  
23 employee and/or co-conspirator of each and every other Defendant, and was acting  
24 within the scope of such agency, employment and/or conspiracy and/or with the  
25 permission, consent, and/or direction and/or adoption of the other co-Defendants.

26           20. Each of the Defendants caused and is responsible for the unlawful  
27 conduct and resulting injury herein alleged by, *inter alia*, personally participating in  
28 the conduct, or acting jointly and in concert with others who did so by authorizing,

1 acquiescing in or failing to take action to prevent the unlawful conduct by  
2 intervention, or promulgating policies and procedures or practices pursuant to which  
3 the unlawful conduct occurred; by failing and refusing to initiate and maintain  
4 adequate training, supervision, policies, procedures and protocols; by failing to  
5 implement and ensure compliance with policies and procedures to ensure the safety  
6 and reasonable security of individuals, such as Plaintiff; and by ratifying the  
7 unlawful conduct performed by agents, employees, counselors, staff, and officers  
8 under their direction and control.

9       21. Whenever and wherever reference is made in this Complaint to any act  
10 by a Defendant, such allegation and reference will also be deemed to mean the acts  
11 and failures to act of each Defendant individually, jointly, and/or severally.

12       22. The acts and/or omissions of all Defendants, named and un-named  
13 were engaged in maliciously, callously, oppressively, wantonly, recklessly, and with  
14 deliberate indifference to or reckless disregard for Plaintiff's rights and the truth.

15       23. Each and every paragraph of this complaint is expressly incorporated  
16 into each cause of action alleged herein as if fully stated therein.

#### 17 **IV. FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS**

18       24. Following several failed attempts, in July 1997, Plaintiff William  
19 Richards was wrongfully convicted of murdering his wife, a crime that he did not  
20 commit. Plaintiff was transferred to the custody of the California Department of  
21 Corrections, later California Department of Corrections and Rehabilitation  
22 ("CDCR"), on or about December 11, 1998. Plaintiff's conviction was reversed on  
23 May 26, 2016 by the California Supreme Court, following years of post-conviction  
24 litigation seeking to prove his innocence. He remained in custody until June 21,  
25 2016.

26       25. During the years 2002 through 2004, Plaintiff was housed at Centinela  
27 State Prison ("Centinela"). At that time: Defendant Charles Pickett, D.O., was the  
28 Chief Medical Officer and Health Care Manager; Defendant John Parsons, MD, was



1 the Chief Physician; and Defendants Donald B. Thornton, MD, and Bonifacio C.  
2 Esperanza, MD, were staff physicians; Doe Defendants were medical providers and  
3 policy makers with respect to the delivery of health care services. All of these  
4 Defendants provided medical care to Plaintiff during the years 2002-2004 and were  
5 responsible for his health and medical treatment. These defendants, especially  
6 Defendant Charles Pickett as Chief Medical Officer, were responsible for  
7 coordinating health care needs for inmates and establishing policies and practices  
8 for ensuring that inmates were receiving appropriate and necessary health care  
9 services and follow-up treatment.

10 26. During the years 2002 through 2004, while housed at Centinela State  
11 Prison, Plaintiff began to present symptoms consistent with the onset of prostate  
12 cancer. Plaintiff reported these symptoms to Defendants during medical  
13 appointments.

14 27. On or about August 28, 2003, at Centinela State Prison, Defendant  
15 Bonifacio Esperanza ordered blood testing for Plaintiff to screen his PSA levels. On  
16 or about September 5, 2003, laboratory results were returned with a finding that  
17 Plaintiff's PSA (prostate-specific antigen) level was 3.8, higher than normal.  
18 Plaintiff was not informed of the test results, and no further action was taken by Dr.  
19 Esperanza or CDCR medical staff based on the test results.

20 28. PSA screening is preformed to aid in the diagnosis of prostate cancer.  
21 A higher than normal PSA reading is an indicator that the person has a prostate  
22 tumor. PSA screening, combined with other diagnostic tools, such as taking a  
23 medical history, evaluating the patient's symptoms (if any), a digital rectal  
24 examination, and/or a prostate biopsy are used to confirm the existence of cancer or  
25 to take an approach of "watchful waiting," whereby the patient is monitored  
26 regularly, including with further PSA tests, to determine if/when cancer develops.  
27 In 2003, following the blood test showing Plaintiff's abnormal PSA level, none of  
28 these tests were performed on Plaintiff or presented to him as options. Plaintiff was



1 not informed of the results of the PSA test and received no medical counseling or  
2 treatment plan in relation to the abnormal PSA test results.

3 29. During the years 2004 through 2006, Plaintiff was housed at  
4 Chuckawalla Valley State Prison ("CVSP"). At that time: Defendant John W.  
5 Culton, MD, was the Chief Medical Officer and Health Care Manager; Defendant  
6 David Dunn, MD, was a staff physician; Doe Defendants were medical providers  
7 and policy makers with respect to the delivery of health care services. These  
8 Defendants provided medical care to Plaintiff during the years 2004-2006 and were  
9 responsible for his health and medical treatment. These defendants, especially  
10 Defendant John W. Culton as Chief Medical Officer, were responsible for  
11 coordinating health care needs for inmates and establishing policies and practices  
12 for ensuring that inmates were receiving appropriate and necessary health care  
13 services and follow-up treatment.

14 30. During the years 2004 through 2006, while housed at CVSP, Plaintiff  
15 informed his medical providers about symptoms he was experiencing and asked his  
16 medical providers for prostate cancer screening but was not given regular PSA tests  
17 or any other form of prostate cancer screening or diagnostic treatment. Plaintiff was  
18 not informed of the results of his 2003 PSA test. Plaintiff was told, contrary to the  
19 results of his 2003 PSA test, that his bloodwork did not present any concerns and  
20 that his PSA levels was within normal limits, although those levels were not being  
21 tested during the years 2004-2006.

22 31. During the years 2006-2007, Plaintiff was housed at California  
23 Correctional Institution in Tehachapi ("CCI"). At that time: Doe Defendants were  
24 medical providers and policy makers with respect to the delivery of health care  
25 services at CCI. These Defendants provided medical care to Plaintiff during the  
26 years 2006-2007 and were responsible for his health and medical treatment. These  
27 defendants, especially the CCI Chief Medical Officer(s), were responsible for  
28 coordinating health care needs for inmates and establishing policies and practices

1 for ensuring that inmates were receiving appropriate and necessary health care  
2 services and follow-up treatment.

3 32. In or around March 2007, a second PSA test was ordered and  
4 performed. Plaintiff's PSA level was measured to be 6.8, well above normal levels  
5 for a person of Plaintiff's age. Although Plaintiff was referred to a urologist as a  
6 result of these lab results and although Plaintiff followed up with an inquiry about  
7 the appointment, no appointment was made until later.

8 33. On or about July 2007, a prostate biopsy was eventually performed on  
9 Plaintiff. Tissue was sampled from the right and left side of Plaintiff's prostate  
10 (three cores each). The right biopsy revealed adenocarcinoma of the prostate, cT2a,  
11 with a Gleason score of 7 (4+3), involving 2 cores and accounting for 60%  
12 perineural invasion.

13 34. Plaintiff was transferred to California Men's Colony ("CMC") in or  
14 around September 2007. Doe Defendants were medical providers and policy makers  
15 with respect to the delivery of health care services at CMC. These Defendants  
16 provided medical care to Plaintiff during the years 2007-2008 and were responsible  
17 for his health and medical treatment. These defendants, especially the CMC Chief  
18 Medical Officer(s), were responsible for coordinating health care needs for inmates  
19 and establishing policies and practices for ensuring that inmates were receiving  
20 appropriate and necessary health care services and follow-up treatment.

21 35. Radiation treatment did not begin until October 2007, six months after  
22 his March PSA test and several months after his biopsy. The treatment was  
23 concluded in January 2008. Plaintiff was also started on ADT (androgen deprivation  
24 therapy) treatments, beginning in November 2007 with an injection of 22.5 mg of  
25 Lupron on November 21, 2007. Plaintiff was ordered to receive injections every  
26 three months. He received a second injection on February 15, 2008 and a third  
27 injection on March 14, 2008.

28 36. Plaintiff was transferred to California Medical Facility ("CMF") in

1 approximately February 2008. During the years 2008 through 2016, when Plaintiff  
2 was not housed in a San Bernardino County jail facility or transferring to/from a San  
3 Bernardino County jail facility, he was housed at CMF. Defendants Nicholas  
4 Aguilera, Joseph Bick, Ray Andreasen, Nabil Athanassious, Eli Richman, Balraj  
5 Dhillon, Deepak Mehta, and Doe Defendants were medical providers and policy  
6 makers with respect to the delivery of health care services at CMF. These  
7 Defendants provided medical care to Plaintiff during the years 2008-2016 and were  
8 responsible for his health and medical treatment at CMF. These defendants,  
9 especially the CMF Chief Medical Officer(s), were responsible for coordinating  
10 health care needs for inmates and establishing policies and practices for ensuring  
11 that inmates were receiving appropriate and necessary health care services and  
12 follow-up treatment.

13 37. Follow-up blood tests produced the following PSA level  
14 measurements: 0.2 (3/25/08), 0.5 (6/10/08), 0.6 (8/5/08), 0.7 (9/30/08), 0.7  
15 (10/3/08), 1.1 (11/17/08). In August 2008, the rising post-radiation PSA levels were  
16 acknowledged in progress notes. Around that time, Defendant Athanassious noted  
17 that there was “clinical evidence of recurrence.”

18 38. Rapid and significant increases in PSA levels following radiation,  
19 measured in by velocity and doubling time, is an indication of both of the recurrence  
20 of prostate cancer and the aggressiveness of the cancer. Plaintiff’s short doubling  
21 time and rapid increase in PSA levels following the conclusion of his radiation and  
22 ADT treatments meant that early and aggressive follow-up treatment should have  
23 been considered and recommended.

24 39. As early as June 2008, a biopsy was recommended. The order for a  
25 biopsy was noted at various points between June 2008 and December 2009, but  
26 never completed. During this period, plaintiff was also referred for a urology  
27 appointment multiple times, but one was not scheduled. Plaintiff’s PSA levels  
28 continued to rise, the possible recurrence of his prostate cancer was repeatedly

1 noted, and yet no follow-up or treatment was provided.

2       40. Between October 2008 and March 2010, Plaintiff was transferred  
3 multiple times between CDCR institutions and San Bernardino County jail. Starting  
4 in or around March 2010, Plaintiff spent a three-year period in San Bernardino  
5 County jail while his petition for writ of habeas corpus was litigated. In or around  
6 March 2013, Plaintiff was rehoused in CDCR institutions. During the period that he  
7 was housed in San Bernardino County jails, Defendants ARMC, John Price, Chau,  
8 Noel Hui, Edmund Ko, and Doe Defendants were medical providers and policy  
9 makers with respect to the delivery of health care services at to prisoners and  
10 detainees at San Bernardino County jail. These Defendants provided medical care to  
11 Plaintiff during the years 2008-2013 and were responsible for his health and medical  
12 treatment while housed in San Bernardino County jails. These defendants, especially  
13 the supervising medical officials for the San Bernardino County jails, were  
14 responsible for coordinating health care needs for inmates and establishing policies  
15 and practices for ensuring that inmates were receiving appropriate and necessary  
16 health care services and follow-up treatment.

17       41. Plaintiff eventually received a urology consultation in or around  
18 December 2009 with Defendant Athanassious. At that time, Plaintiff was housed at  
19 CMF. Defendant Athanassious noted that Plaintiff's PSA had been rising since April  
20 2008 and had reached 1.5, although the cut line is usually 0.5. Instead of referring  
21 Plaintiff for curative treatment or discussing those options with him, Defendants  
22 recommended androgen therapy which would, at best, slow down the growth of the  
23 cancer. A biopsy was not done to confirm the recurrence or evaluate the  
24 aggressiveness of the cancer. In December 2009, Plaintiff began another round of  
25 ADT treatments.

26       42. Between December 2009 and August 2012, while Plaintiff was housed  
27 at CMF and San Bernardino County jails, Plaintiff received haphazard and  
28 inconsistent treatment. Tests, appointments, and procedures were ordered but left

1 incomplete, rescheduled multiple times, and/or delayed for months. Plaintiff's PSA  
2 levels, which decreased after ADT treatments, would then steadily increase again.  
3 This pattern was noted in Plaintiff's medical records. No further action was taken.  
4 No biopsy was performed until September 2011. No alternative treatment plan or  
5 more aggressive treatment was proposed during this period.

6 43. In or around August 2012, after extensive advocacy by Plaintiff and  
7 his representatives, cryoablation was performed at Loma Linda Medical Center.

8 44. At some point after his cryoablation treatment, Plaintiff's PSA levels  
9 rose again, once again indicating chemical recurrence of the prostate cancer.

10 Plaintiff underwent intermittent ADT treatment until his release from custody in  
11 June 2016.

12 45. On or around May 3, 2016, during an appointment with his oncologist,  
13 Plaintiff was informed for the first time that he had no further curative treatment  
14 options and that his cancer was terminal. Plaintiff, who with the assistance of his  
15 post-conviction counsel had made every attempt to improve his medical treatment  
16 while in custody and work within the system, learned that the delays and deficient  
17 treatment he received could not be corrected and had cost him his chance of  
18 survival.

19 46. At the time of filing this Complaint, Plaintiff's cancer continues to  
20 respond to hormone therapy, but at some point, the hormone therapy will no longer  
21 be effective at preventing the growth and spread of Plaintiff's prostate cancer. Other  
22 treatments that are available, such as chemotherapy, may serve to prolong life, but  
23 will not cure Plaintiff's disease.

## 24 **V. PARTICIPATION, STATE OF MIND, AND DAMAGES**

25 47. All Defendants acted illegally under color of law.

26 48. Each individual Defendant participated in the violations alleged herein,  
27 and/or directed the violations alleged herein, and/or knew or should have known of  
28 the violations alleged herein and failed to act to prevent them. Each Defendant

1 ratified, approved or acquiesced in the violations alleged herein.

2 49. As joint actors with joint obligations, each individual Defendant was  
3 and is responsible for the failures and omissions of the other.

4 50. Each individual Defendant acted individually and in concert with the  
5 other Defendants and others not named in violating Plaintiff's rights.

6 51. Each Defendant acted deliberately, purposefully, knowingly and/or  
7 with deliberate indifference to, or reckless disregard for an accused's rights or the  
8 truth in engaging in the conduct alleged herein.

9 52. As a direct and proximate result of the described acts, omissions,  
10 customs, practices, policies, and decisions of the Defendants, Plaintiff was not  
11 diagnosed and not treated and was later was provided untimely, deficient, and  
12 inadequate medical care for prostate cancer. As a direct and proximate result of the  
13 deliberately indifferent medical care that Plaintiff received from Defendants,  
14 Plaintiff's prostate cancer advanced without treatment; curative treatments,  
15 including radiation and cryoablation, were delayed; and Plaintiff's health  
16 deteriorated. The deliberately indifferent mistreatment, delayed treatment, and non-  
17 treatment of Plaintiff's prostate cancer materially and negatively impacted his  
18 prognosis and chances of survival from an otherwise treatable and curable disease.

19 53. As a direct and proximate result of the substandard medical care that  
20 Plaintiff received, Plaintiff has suffered, continues to suffer, and is likely to suffer in  
21 the future, extreme and severe mental anguish, mental and physical pain and injury,  
22 fright, nervousness, anxiety, shock, humiliation, indignity, embarrassment, and  
23 apprehension. For such injuries, he has incurred and will continue to incur  
24 significant damages.

25 54. The aforementioned acts and/or omissions of Defendants, and each of  
26 them, was willful, wanton, malicious, oppressive, in bad faith, and done knowingly,  
27 purposefully, and/or with deliberate indifference to and/or reckless disregard for  
28 Plaintiff's constitutional rights or the truth.





1 monitoring, and that without indicated medical care and treatment his condition  
2 would deteriorate. These Defendants and Doe defendants deprived Plaintiff of his  
3 rights by, *inter alia*, delaying and/or denying Plaintiff access to and/or delivery of  
4 reasonable and adequate diagnosis, medical care, treatment, follow-up, and  
5 supervision for his serious but treatable medical condition, with deliberate  
6 indifference to the risk of harm to Plaintiff.

7         59. The Individual Defendants, ARMC, and DOES 1 through 10 were  
8 physicians, nurses, medical providers, and custodial staff responsible for  
9 establishing and carrying out the policies, practices, and customs of the CDCR and  
10 San Bernardino County Sheriff's Department with respect to the diagnosis,  
11 supervision, monitoring, and treatment of prisoners and detainees with serious  
12 medical conditions. Defendants failed to establish and/or carry out policies,  
13 practices, and customs that would ensure timely, adequate, and reasonable  
14 diagnosis, supervision, monitoring, and treatment of serious medical conditions. In  
15 so doing, Defendants acted with deliberate indifference to the risk of harm to  
16 Plaintiff. And as a result, these Defendants and Doe defendants deprived Plaintiff of  
17 his rights and/or allowed others to deprive Plaintiff of his rights by, *inter alia*,  
18 delaying and/or denying Plaintiff access to and/or delivery of reasonable and  
19 adequate diagnosis, medical care, treatment, follow-up, and supervision for his  
20 serious but treatable medical condition.

21         60. Defendants, and each of them, conspired and agreed to commit the  
22 above-described unconstitutional deprivations of Plaintiff's rights and acted in  
23 concert to deprive Plaintiff of his rights to reasonable and adequate medical care,  
24 treatment, and security.

25         61. Defendants, and each of them, engaged in, knew about, or should have  
26 known about the acts and/or omissions that caused the constitutional deprivations  
27 alleged herein and failed to prevent it and/or ratified/approved it and/or acquiesced  
28 in them.

1           62. Defendants, and each of them, committed the aforementioned acts and  
2 omissions in bad faith and with knowledge that their conduct violated well-  
3 established law.

4           63. As a direct and proximate result of Defendants' aforementioned acts  
5 and/or omissions, Plaintiff was injured as set forth in earlier paragraphs of this  
6 complaint and is entitled to compensatory damages according to proof and attorneys  
7 fees.

8           64. The aforementioned acts and omissions of Defendants were committed  
9 by each of them knowingly, willfully, maliciously, oppressively, and/or in reckless  
10 disregard of Plaintiff's rights. By reason thereof, Plaintiff is entitled to punitive and  
11 exemplary damages from Defendants according to proof.

12                           **SECOND CAUSE OF ACTION**

13                   **VIOLATION OF CIVIL RIGHTS — 42 U.S.C. § 1983 (*MONELL*)**

14                           **(AGAINST DEFENDANT COUNTY)**

15           65. Plaintiff re-alleges and incorporates by reference all foregoing  
16 paragraphs, as well as any subsequent paragraphs contained in the complaint, as  
17 though fully stated herein.

18           66. During all times relevant hereto, Defendant COUNTY and the SBSD,  
19 an agency and subdivision of Defendant COUNTY, were public entities and  
20 municipal corporations, duly organized and existing under and by virtue of the laws  
21 of the State of California. Defendant COUNTY, through its policymakers and as a  
22 matter of custom, policy or practice, caused Plaintiff to be deprived of rights,  
23 privileges, and immunities secured by the Constitution and laws of the United  
24 States, including the Fifth, Eighth, and Fourteenth Amendments by, *inter alia*, hiring  
25 and maintaining medical personnel who are predisposed to deny or delay prisoners  
26 access to medical attention or fail to provide adequate and reasonable medical care  
27 for serious medical conditions; delaying and/or denying prisoners access to and/or  
28 delivery of reasonable and adequate diagnosis, medical care, treatment, follow-up,

1 and supervision for serious medical conditions; not providing continuity of care or  
2 access to continuous medical care for serious medical conditions; and failing to  
3 properly supervise, train, and/or take corrective action with respect to medical  
4 providers. To the extent that the source of Plaintiff's rights is any constitutional or  
5 statutory source other than the aforementioned constitutional amendments, this  
6 claim is brought on those bases as well.

7       67. Defendant COUNTY and the SBSD possessed the power and authority  
8 to adopt policies and prescribe rules, regulations and practices affecting the  
9 operation of the SBSD and the actions of employees of the SBSD, including  
10 customs, policies and/or practices relating to the provision of medical services to  
11 prisoners and detainees housed in San Bernardino County jails; as well as to  
12 personnel supervision, performance evaluation, internal investigations, discipline,  
13 records maintenance, hiring, termination, and/or retention.

14       68. At all relevant times, Defendants ARMC, John Price, Chau, Noel Hui,  
15 Edmund Ko, and DOES 1 through 10, and each of them, were employees and/or  
16 agents of SBSD and Defendant COUNTY and were under the direction and control  
17 of SBSD and Defendant COUNTY. These defendants acted in accordance with the  
18 customs, policies, and practices of the COUNTY and SBSD in delaying and/or  
19 denying Plaintiff access to and/or delivery of reasonable and adequate diagnosis,  
20 medical care, treatment, follow-up, and supervision for his serious but treatable  
21 medical condition.

22       69. Upon information and belief, at all relevant times, SBSD and  
23 Defendant COUNTY, with deliberate indifference to and/or reckless disregard for  
24 the safety, security, and constitutional and statutory rights of Plaintiff and the risk of  
25 harm to Plaintiff, maintained, enforced, tolerated, ratified, permitted, acquiesced in,  
26 and/or applied unconstitutional policies, practices and/or customs with respect to the  
27 provision of medical services to prisoners in San Bernardino County jails, including  
28 Plaintiff.

70. The customs, policies, and/or practices of SBSB and Defendant COUNTY were a moving force behind the constitutional violations alleged by Plaintiff herein and the resulting injuries to Plaintiff, entitling Plaintiff to compensatory damages according to proof and attorneys' fees and expenses.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment against Defendants CHARLES PICKETT, JOHN PARSONS, DONALD B. THORNTON, BONIFACIO C. ESPERANZA, JOHN CULTON, DAVID DUNN, NICHOLAS AGUILERA, JOSEPH BICK, RAY ANDREASEN, NABIL ATHANASSIOUS, ELI RICHMAN, BALRAJ DHILLON, DEEPAK MEHTA, JOHN PRICE, CHAU, NOEL HUI, EDMUND KO, ARROWHEAD REGIONAL MEDICAL CENTER, COUNTY OF SAN BERNARDINO, and DOES 1 through 10, and each of them, and award of damages jointly and severally, as follows:

1. General and compensatory damages according to proof;
2. Special damages according to proof;
3. Exemplary and punitive damages against each individual Defendant, in amounts according to proof;
4. Costs of litigation;
5. Reasonable attorneys' fees and costs permitted by 42 U.S.C. § 1988;
6. Such other and further relief as the Court may deem just and equitable.

Respectfully submitted,

KAYE, McLANE, BEDNARSKI & LITT, LLP

DATED: April 30, 2018

By: /s/ Caitlin S. Weisberg

CAITLIN S. WEISBERG

Attorneys for Plaintiff

LAW OFFICES OF WENDY KOEN

DATED: April 30, 2018 By: /s/ Wendy Koen

WENDY KOEN

Attorney for Plaintiff

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues.

Respectfully submitted,

KAYE, McLANE, BEDNARSKI & LITT, LLP

DATED: April 30, 2018 By: /s/ Caitlin S. Weisberg

CAITLIN S. WEISBERG

Attorneys for Plaintiff

LAW OFFICES OF WENDY KOEN

DATED: April 30, 2018 By: /s/ Wendy Koen

WENDY KOEN

Attorney for Plaintiff