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PAULINE SMITH

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

PAULINE SMITH, an individual

Plaintiff,

V.

COUNTY OF LOS ANGELES, LOS ANGELES COUNTY SHERIFF'S DEPARTMENT, LOS ANGELES COUNTY SHERIFF JAMES MCDONNELL, IN HIS INDIVIDUAL AND OFFICIAL CAPACITY, DEPUTY GIANCARLO SCOTTI, IN HIS INDIVIDUAL AND OFFICIAL CAPACITY, AND DOES 1 TO 10,

Defendants.

) Case Number:
)
) PLAINTIFF COMPLAINT FOR
) DAMAGES:
) (1) VIOLATION OF CIVIL RIGHTS,
) 42 U.S.C. §1983, INDIVIDUAL
) LIABILITY (VIOLATION OF
) FOURTH, EIGHTH AND
) FOURTEENTH AMENDMENT);
) (2) MONELL CLAIM 42 U.S.C.
) §1983,
) (3) FALSE IMPRISONMENT
) (4) NEGLIGENCE;
) (5) NEGLIGENT SUPERVISION,
) HIRING, OR RETENTION
) (6) VIOLATION OF CALIFORNIA
) CIVIL CODE § 52.4;
) (7) VIOLATION OF CALIFORNIA
) CIVIL CODE § 52.1;
) (8) VIOLATION OF CALIFORNIA
) CIVIL CODE 1708.5
) (9) ASSAULT AND BATTERY

[JURY TRIAL DEMAND]

PRELIMINARY STATEMENT

1
2 This is a civil rights action arising from the appalling sexual abuse of
3 various female inmates by Deputy Giancarlo Scotti (hereinafter “Scotti”) while
4 working in his capacity as an employee of the County of Los Angeles as a
5 Sheriff’s deputy for the Century Regional Detention Center (hereinafter
6 “CRDF”) women’s jail located at 11705 Alameda Street Lynwood, CA 90059.
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9 **JURISDICTION AND VENUE**

10 1. This court has jurisdiction over this action pursuant to 28 U.S.C. §
11 1331(federal question) and 28 U.S.C. §1343(3) (civil rights). This court has
12 supplemental jurisdiction over Plaintiff’s state law claims pursuant to 28 U.S.C. §
13 1367 (supplemental jurisdiction) as they arise out of a common nucleus of
14 operative facts.
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17 2. At all relevant times to the facts underlying the present complaint,
18 Plaintiff PAULINE SMITH (hereinafter Plaintiff”) was incarcerated at the
19 Century Regional Detention Facility (“CRDF”), a women’s jail located at 11705
20 Alameda Street, Lynwood, CA 90059.
21

22 3. Venue is proper in the Central District of California under 28
23 U.S.C. § 1392(a) and (b) as it is the judicial district in which the claim arose.
24

25 **PARTIES**

26 4. Plaintiff, PAULINE SMITH is a competent adult.
27

1 5. Defendant COUNTY OF LOS ANGELES (“County”) is a legal and
2 political entity established under the laws of the State of California, with all of the
3 powers specified and necessarily implied by the Constitution and the laws of the
4 State of California and exercised by various government agents and officers. In
5 this case, the County acted through its agents, employees, and servants, including
6 the policymakers for defendant the LOS ANGELES COUNTY SHERIFF’S
7 DEPARTMENT (“LASD”), and through defendant JAMES MCDONNELL
8 (“McDonnell”), the Los Angeles County Sheriff. Defendant McDonnell is sued in
9 both his official and individual capacities.
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13 6. At all relevant times, Defendants County, LASD, McDonnell and
14 each of them, possessed the power and authority to adopt policies and prescribe
15 rules, regulations, and practices affecting all facets of the training, supervision,
16 control, employment, assignment and removal of individual members of the
17 LASD, including those individuals charged with protecting the health and safety of
18 detainees and arrestees at County detention facilities, including plaintiff PAULINE
19 SMITH, and to assure that said actions, policies, rules, regulations, customs,
20 practices and procedures of the LASD and its employees and agents complied with
21 the laws and constitutions of the United States and the State of California. At all
22 relevant times, the County was the employer of each of the individually named
23 defendants, and the CRDF was a County-run facility, operated by the LASD.
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1 7. Defendant Deputy Giancarlo Scotti (“Deputy Scotti”) is a deputy
2 sheriff for the LASD. At all relevant times, Deputy Scotti was a duly authorized
3 employee and agent of the County of Los Angeles, subject to oversight and
4 supervision by the County’s elected and non-elected officials, and was acting
5 under color of law and within the course and scope of his duties as a sheriff deputy
6 for the LASD and with complete authority and ratification of the principal, County.
7 In committing the acts alleged herein, Deputy Scotti acted within the scope of his
8 respective employment and under color of law. Deputy Scotti is sued in both his
9 official and individual capacities.
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13 8. Plaintiff is informed and believes and thereon alleges that Defendants
14 sued herein as DOES 1 through 10, inclusive, were employees of the COUNTY
15 OF LOS ANGELES, and were at all relevant times acting in the course and scope
16 of their employment and agency. Each Defendant is the agent of the other. Plaintiff
17 alleges that each of the Defendants named as a "DOE" 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. Each individually named Doe defendant, like each
21 individually named defendant, acted under color of law and within the scope of his
22 or her agency and employment with the County and LASD. Each Doe is sued in
23 both his/her official and individual capacities.
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SATISFACTION OF GOVERNMENT CODE REQUIREMENTS

1
2 10. Plaintiff timely filed an administrative claim with the County of Los
3 Angeles and the Los Angeles County Sheriff’s Department pursuant to Cal. Gov’t
4 Code § 910.
5

FACTS COMMON TO ALL CAUSES OF ACTION

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8 11. Plaintiff realleges all prior paragraphs of this complaint and
9 incorporates the same herein by this reference.
10

11 12. On February 3, 2017, PAULINE SMITH began to serve a sentence for
12 driving under the influence. SMITH was detained at the Century Regional
13 Detention Facility (CRDF) in Lynwood during that time. She was released from
14 LASD custody on October 31, 2017.
15

16 13. There was one sheriff’s officer per module during her time at the
17 CRDF, and Smith was under the direct supervision of Deputy Scotti.
18

19 14. Several months after her sentencing and approximately, on or about
20 August of 2017, Plaintiff Pauline Smith was in the outdoor recreation area of
21 CRDF, when she was approached by Deputy Scotti. The outdoor recreation area
22 was dark and had minimal lighting. While in the recreation area, Deputy Scotti
23 demanded Smith expose herself to him. Smith appalled by the comment, froze in
24 place. Deputy Scotti then stated “I said show me your tits!” After Plaintiff again
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1 did not comply. Defendant Scotti stated, “You do what I say, or else it is going to
2 be really bad for you here!” Intimidated Deputy Scotti’s demanding tone, and in
3 fear for her safety, Smith complied with the Deputy’s commands. Deputy Scotti
4 then grabbed her breasts and began groping Smith’s breasts.
5

6 15. A few days later, Deputy Scotti approached Smith and forced her to
7 stroke his penis for his sexual arousal. Deputy Scotti took Smith’s hand and
8 placed it onto his penis. When Smith resisted, Deputy Scotti threatened that he
9 would remove her from the school module if she did not comply with his sexual
10 demands, and make things worse for her. In fear and finding no choice, Smith was
11 forced to comply with his demands.
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14 16. On several occasions in or around the same time, Deputy Scotti forced
15 himself upon Smith and kissed her.
16

17 17. Given the sexual harassment and sexual abuse, Plaintiff Smith suffered
18 psychological injuries, and does not recall the exact dates of each sexual assault by
19 Deputy Scotti.
20

21 18. On or about September 2017, Smith was approached by the County’s
22 Internal Affairs department investigators. Smith was interviewed regarding the
23 sexual abuse and exploitation that took place by Deputy Scotti.
24

25 19. After being approached by the County’s Internal Affairs investigators,
26 Plaintiff Smith was in fear that other LASD employees and Deputy Scotti himself
27

1 would seek retaliation and revenge. Plaintiff Smith had constant nightmare about
2 being wrongfully arrested by other LASD employees out of retaliation for
3 speaking out about the sexual abuse.
4

5 **FACTS RELEVANT TO MONELL CLAIM**

6 20. Upon information and belief, Plaintiff alleges that before she was
7 sexually assaulted by Deputy Scotti, Deputy Scotti had sexually assaulted other
8 female inmates at CRDF and that the County, LASD and McDonnell were on
9 notice of this conduct.
10

11 21. Upon information and belief, Plaintiff alleges that Deputy Scotti had
12 been placed on employment probation by the County before he sexually assaulted
13 Plaintiff. Despite this knowledge and prior notice, the County and LASD
14 (collectively referred to herein as “Municipal Defendants”) and McDonnell, and
15 certain Does, permitted Deputy Scotti to work at a women’s jail, permitting him
16 the regular, daily task of supervising women inmates, which oftentimes
17 necessitated that he be alone with women inmates, thereby facilitating his behavior
18 and conduct.
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22 22. Defendant McDonnell, and certain Does, other LASD supervising
23 officers, were on notice that Deputy Scotti was engaging in conduct in violation of
24 written policies, including policies deterring sexual abuse.
25

26 23. Defendant McDonnell, and certain Does, other LASD supervising
27

1 officers, failed to act to prevent Deputy Scotti from engaging in this conduct. Since
2 the written policies were designed, at least in part, to prevent and deter sexual
3 abuse, McDonnell, and other LASD supervising officers knew, or reasonably
4 should have known, that the failure to enforce these policies heightened the danger
5 of sexual abuse of female inmates by Deputy Scotti.
6

7
8 24. As a result of McDonnell, and certain Does (other LASD supervising
9 officers) failure to supervise Deputy Scotti, despite being put on notice, Deputy
10 Scotti was not subject to timely LASD discipline and instead permitted the
11 opportunity to victimize female inmates, such as Plaintiff.
12

13 25. Further evidence exists that the County, LASD, and McDonnell are
14 not meeting their constitutional obligations and are not adequately protecting
15 women inmates from sexual assault: the Prison Rape Elimination Act of 2003
16 (“PREA”), currently codified at 34 U.S.C. § 30301, et seq., mandates that
17 correctional facilities protect inmates from sexual assault. A subsequently
18 promulgated federal rule (28 C.F.R. 115.401) requires that agencies ensure that
19 each of their correctional facilities is audited once every three years. At the time of
20 the sexual assaults of Plaintiff, the CRDF had not undergone such a timely audit.
21 Indeed, no jail operated by the County and LASD had undergone a PREA-related
22 audit within three years of Deputy Scotti’s sexual assaults of the Plaintiffs.
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1 26. If Deputy Scotti had been adequately trained and supervised prior to
2 the sexual abuse of Plaintiff, if his errant behavior had been timely investigated, if
3 he had been timely punished as a result, and if the CRDF had been properly
4 audited, in compliance with federal standards, the sexual abuse of Plaintiff in this
5 case could have been averted.
6

7
8 **PARTICIPATION, STATE OF MIND AND DAMAGES**

9 27. Each Defendant participated in the violations alleged herein, or
10 directed the violations alleged herein, or knew of the violations alleged herein and
11 failed to act to prevent them. Each Defendant ratified, approved, or acquiesced in
12 the violations alleged herein.
13

14 28. As joint actors with joint obligations, each Defendant was and is
15 responsible for the failures and omissions of the other.
16

17 29. Each Defendant acted individually and in concert with the other
18 Defendants and others not named in violating Plaintiff's rights.
19

20 30. Each Defendant acted with deliberate indifference to and reckless
21 disregard for Plaintiff's rights.
22

23 31. Defendants Deputy Scotti, McDonnell, and Does 1-10, and each of
24 them, acted in conspiracy to violate Plaintiff's civil rights. Defendants Deputy
25 Scotti, McDonnell, and Does 1-10, and each of them, had a joint and simultaneous
26 duty to make sure that Plaintiff was not sexually assaulted; had joint and
27

1 simultaneous knowledge that Plaintiff was at risk of being sexually assaulted by
2 Deputy Scotti; with such duty, knowledge and a meeting of the minds, took action
3 at the same time and in the same place to collaborate to refuse to protect Plaintiff
4 from Deputy Scotti's sexual assaults. Thus, they formed a 'pact of denial' such that
5 for the months that Plaintiff was subject to Deputy Scotti's sexual assaults – and
6 after the individual defendants had been alerted to the danger Deputy Scotti posed
7 to Plaintiff – not a single one of them did anything to intervene on Plaintiff's
8 behalf or prevent the sexual assaults of Plaintiff. They acted as described herein
9 above, in conspiracy with, and with the agreement, permission, ratification, and
10 approval of each other to violate Plaintiffs' civil rights as stated herein.
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14 32. As a direct and proximate result of the aforesaid acts, omissions,
15 customs, practices, policies and decisions of the Defendants, Plaintiff SMITH has
16 suffered great mental pain, suffering, anguish, fright, nervousness, anxiety, shock,
17 humiliation, indignity, embarrassment, harm to reputation, and apprehension,
18 which have caused Plaintiff to sustain damages in a sum to be determined at trial.
19 Plaintiff at this time is seeking psychological treatment due to the events of this
20 incident, and thereby incurred and will continue to incur such damages, the amount
21 of which to be proven at the time of trial. Due to the acts of the Defendants,
22 Plaintiff has suffered, and will continue to suffer, and is likely to suffer in the
23 future, extreme and severe mental anguish.
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1 33. As a direct and proximate result of the aforesaid acts, omissions,
2 customs, practices, policies and decisions of the aforementioned Defendants,
3 Plaintiff suffered the denial of her fundamental constitutional rights guaranteed by
4 the Fourth, Eighth and Fourteenth Amendments of the United States Constitution,
5 which have caused Plaintiff to sustain damages in a sum to be determined at trial.
6

7 34. As a further direct and proximate result of the aforesaid acts,
8 omissions, customs, practices, policies and decisions of the aforementioned
9 Defendants, Plaintiff suffered past and future losses of income that have caused her
10 to sustain economic damages in a sum to be determined at trial.
11

12 35. The aforementioned acts of the Defendants, and each of them, were
13 willful, wanton, malicious, oppressive, in bad faith and done with reckless
14 disregard for or with deliberate indifference to the constitutional rights of Plaintiff
15 SMITH, entitling Plaintiff to exemplary and punitive damages in an amount to be
16 proven at the trial of this matter.
17

18 36. By reason of the above described acts and omissions of Defendants,
19 Plaintiff was required to retain an attorney to institute and prosecute the instant
20 action, and to render legal assistance to vindicate the loss and impairment of her
21 constitutional rights, and by reason thereof, Plaintiff requests payment by
22 Defendants of a reasonable sum for attorney's fees pursuant to 42 U.S.C. §1988,
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1 California Code of Civil Procedure §1021.5, and any other applicable provision of
2 law.

3
4 **FIRST CAUSE OF ACTION**

5 **VIOLATION OF CIVIL RIGHTS 42 U.S.C. §1983- INDIVIDUAL**
6 **LIABILITY (VIOLATION OF FOURTH, EIGHTH AND FOURTEENTH**
7 **AMENDMENT)**

8 **(By Plaintiff against Deputy Scotti and Certain Doe Defendants)**

9 37. Plaintiff realleges all prior paragraphs of this complaint and
10 incorporates the same herein by this reference.

11 38. The sexual assaults of Plaintiff by Deputy Scotti, and Deputy Scotti's
12 conduct as described above, were unreasonable, unjustified, and offensive to
13 human dignity.

14 39. Deputy Scotti acted with deliberate indifference to Plaintiff Smith's
15 Fourth Amendment, Eighth Amendment, and Fourteenth Amendment Rights.

16 40. Smith was subjected to deprivation of rights by Deputy Scotti, acting
17 under color of law and of statutes, ordinances, regulations, customs and usages of
18 the laws of United States, State of California, which rights included, but are not
19 limited to, privileges and immunities secured to Smith by the Fourth Amendment,
20 Eighth Amendment and Fourteenth Amendment to the United States Constitution
21 and laws of the United States.
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1 41. As a direct and proximate result of the acts of Deputy Scotti, Plaintiff
2 sustained injuries and damages as alleged herein, in an amount to be proven.

3 42. Deputy Scotti violated Plaintiff's federal constitutional rights- rights
4 that were clearly established at the time of the conduct at issue:
5

6 a. Excessive Force in Violation of Fourth Amendment Right-

7 i. In general, a seizure of a person is unreasonable under the
8 Fourth Amendment if a deputy uses excessive force. Deputy
9 Scotti used excessive force upon Smith by his sexual
10 assaults.
11

12 ii. Defendant Deputy Scotti, while acting under color of law,
13 sexually assaulted Plaintiff Smith and engaged in the
14 conduct described above, and thereby deprived Plaintiff of
15 rights, privileges, and immunities secured under the Fourth
16 Amendment to the United States Constitution.
17

18 iii. Deputy Scotti subjected Plaintiff Smith to excessive force
19 and unjustified infliction of harm through the constant
20 sexually abuse and sexual assaults during her incarceration
21 at CDRF.
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23 b. Excessive Force "Cruel and Unusual Punishment" in Violation of
24 Eighth Amendment Right-
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- i. Under the Eighth Amendment, a convicted prisoner has the right to be free from “cruel and unusual punishments.” Deputy Scotti deprived Plaintiff of her Eighth Amendment right.
- ii. Deputy Scotti used excessive and unnecessary force under all of the circumstances.
- iii. Deputy Scotti acted maliciously and sadistically for the purpose of causing harm to Plaintiff and other female inmates at CDRF.

c. Conditions of Confinement – “Cruel and Unusual Punishment” in Violation of Eighth Amendment Right-

- i. Deputy Scotti’s actions posed a faced a substantial risk of serious harm to Plaintiff;
- ii. Deputy Scotti was deliberately indifferent to that risk.
- iii. Deputy Scotti knew of the risk of harm that his sexual assaults would cause to Plaintiff, and disregarded it by failing to take reasonable measures by failing to discontinue his conduct. Instead, Defendant Scotti continued in his sexual assaults and sexually inappropriate behavior of Plaintiff for weeks.

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iv. Deputy Scotti’s continued actions caused psychological and physical harm to Plaintiff Smith.

v. Defendant Scotti made an intentional decision with respect to the conditions under which the plaintiff was confined;

d. Claim for Failure to Protect – “Cruel and Unusual Punishment” in Violation of Eighth Amendment Right-

i. Defendant Scotti and the remaining Defendants made an intentional decision with respect to the conditions under which the Plaintiff was confined at CDRF.

ii. Those conditions put the plaintiff at substantial risk of suffering serious harm.

iii. Defendants did not take reasonable available measures to abate that risk, and a reasonable deputy and/or supervising deputy in the same circumstances would have appreciated the high degree of risk involved, making the consequences of the defendant’s conduct obvious. Thus, Defendant Scotti’s behavior was objectively unreasonable; and

iv. By not taking such measures to protect and reduce the risk of harm to female inmates, the defendant causeds the Plaintiff’s injuries.

1 *e. Deprivation of Due Process Under Fourteenth Amendment*

2 i. Plaintiff had a cognizable interest under the Due Process
3 Clause of the Fourteenth Amendment of the United States
4 Constitution to be free from state actions that deprives her of
5 life, liberty, or property in such a matter as to shock the
6 conscience.
7

8
9 ii. Defendant Deputy Scotti, acting under color of law and
10 within the course and scope of his employment by the
11 County and LASD, sexually assaulted Plaintiff and engaged
12 in the conduct described above, and thereby deprived
13 Plaintiff of her civil rights under the Fourteenth Amendment
14 to the United States Constitution.
15
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17 43. Defendants’ conduct was willful, wanton, malicious, and done with
18 reckless disregard for the rights and safety of Plaintiff, and therefore warrants the
19 imposition of exemplary and punitive damages.
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SECOND CAUSE OF ACTION

**DEPRIVATION OF CIVIL RIGHTS –
42 U.S.C. § 1983 – MONELL CLAIM
(Against County, LASD, McDonnell, and Certain Does)**

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5 44. Plaintiff realleges all the foregoing paragraphs, as well as any
6 subsequent paragraphs contained in the complaint, as if fully set forth herein.

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8 45. Plaintiff is informed and believes, and thereon alleges, that, at all
9 times herein mentioned, Defendant County, LASD, McDonnell, and Certain
10 Does acted with deliberate indifference to, and/or conscious or reckless disregard
11 for the safety and constitutional rights of Plaintiff, maintained, enforced,
12 tolerated, ratified, permitted, acquiesced in, and/or applied unconstitutional
13 policies, practices and customs, including, but not limited to:

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16 a. Facilitating an environment wherein female inmates, including
17 Pauline Smith, were sexually assaulted, and failing to rectify the
18 ongoing conduct of deputies who were reported for this conduct,
19 despite knowledge of such;
20
21 b. Tolerating unconstitutional customs, practices, and policies that
22 facilitated the deprivation of Plaintiff's rights under the Fourth,
23 Eighth, and Fourteenth Amendments;
24
25 c. The continued victimization of Plaintiff and other female inmates at
26 the CRDF by Deputy Scotti.
27

- 1 d. The municipal defendants' non-compliance with PREA standards,
2 including failure to timely audit the CRDF.
- 3 e. The failure to institute, require and enforce proper and adequate
4 training, supervision, policies, and procedures requiring that sexual
5 assault, sexual harassment, and sexual threats of female inmates do
6 not occur.
- 7
8
- 9 f. The cover-up of violations of constitutional rights by any or all of
10 the following:
- 11 i. By failing to properly investigate and/or evaluate complaints
12 or incidents of sexual abuse;
- 13
14 ii. By ignoring and/or failing to properly and adequately
15 investigate and discipline unconstitutional and unlawful
16 sexual abuse of female inmates;
- 17
18 iii. By allowing, tolerating, and/or encouraging deputies and jail
19 personnel to not report instances of sexual abuse upon female
20 inmates.
- 21
22 iv. To allow, tolerate and/or encourage a "code of silence"
23 among deputies and LASD personnel, whereby a deputy or
24 member of the department does not provide adverse
25 information against a fellow deputy or member of LASD.
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1 46. At all times mentioned herein and prior thereto, defendants County,
2 LASD, McDonnell and certain Does had a duty to train, instruct, supervise and
3 discipline their subordinates and deputies to assure they respected and did not
4 violate constitutional and statutory rights of inmates, and to objectively
5 investigate violations of female inmates' rights, including, but not limited to, the
6 right to be free from sexual abuse, the right to be safe and protected from injury
7 while in Defendants' custody, and the right to speak to officials about sexual
8 abuse without fear of retaliation under the Fourth, Eight and Fourteenth
9 Amendments to the U.S. Constitution.
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12
13 47. Upon information and belief, Plaintiff alleges that, prior to the
14 sexual abuse upon her, Defendants McDonnell and certain DOES facilitated,
15 permitted, ratified and/or condoned similar acts of sexual abuse of female
16 inmates by male Sheriff's deputies, and were deliberately indifferent to the health
17 and safety of inmates in general, and Plaintiff in particular.
18
19

20 48. Defendants knew, or should have reasonably known, of this
21 practice, pattern or policy of constitutional violations, and additionally, of the
22 existence of certain facts and situations that created the potential of
23 unconstitutional acts, and had a duty to instruct, train, supervise and discipline
24 their subordinates to prevent similar acts to other inmates, but failed to do so.
25
26

27 49. The training provided by the County, LASD, and the relevant policy
28

1 maker, Sheriff McDonnell, and relevant County officials, and certain Does was
2 not adequate to train their sheriff deputies and other jail staff to handle recurring
3 situations which they were confronted with. As evidenced by the numerous
4 instances of sexual abuse by male deputies of female inmates other than Plaintiff,
5 the entity defendants did not adequately train their officers and staff to prevent,
6 deter, detect, and avoid sexual abuse of female inmates at the CRDF – and were
7 on notice of such.
8

9
10 50. The entity defendants maintained a policy and practice of inaction with
11 respect to the violation of policies designed to prevent or deter sexual abuse of
12 female inmates. LASD officers who engaged in suspicious behavior, or behavior
13 that violated written policy, were inadequately disciplined or otherwise not
14 penalized in connection with their conduct.
15

16
17 51. Defendants did not properly train or supervise other LASD
18 employees to report instances of possible sexual assault that they may have
19 witnessed or were reported by inmates about.
20

21 52. Entity defendants had either actual or constructive knowledge of the
22 deficient policies, practices and customs alleged in the paragraphs above. Said
23 officials acted with deliberate indifference to the foreseeable effects and
24 consequences of these policies, practices and customs with respect to the
25 constitutional rights of Plaintiff and other female inmates similarly situated.
26
27

1 53. As a direct and proximate result of the aforesaid acts, omissions,
2 customs, practices, policies and decisions of the aforementioned defendants,
3 Plaintiff was injured and sustained damages as alleged above. Accordingly,
4 Plaintiff seeks compensatory damages from all municipal defendants, and
5 punitive damages from defendant McDonnell, in his individual capacity.
6

7 54. The failure to institute, require and enforce proper and adequate
8 training, supervision, policies, and procedures concerning applying force;
9

10 55. The actions of the Defendants including the municipal defendants
11 set forth herein were a moving force behind the violations of Plaintiff Smith's
12 constitutional rights as set forth in this complaint.
13

14 56. As a direct and proximate result of Defendants policies, practices,
15 and customs, Plaintiff sustained injuries and damages as alleged herein, in an
16 amount to be proven.
17

18 **THIRD CAUSE OF ACTION**
19 **FALSE IMPRISONMENT**
20 **(Against Deputy Scotti)**

21 57. Plaintiff realleges all the foregoing paragraphs, as well as any
22 subsequent paragraphs contained in the complaint, as if fully set forth herein.
23

24 58. Plaintiff was wrongfully confined to an area by Defendant Scotti
25 and forced to remain there.
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1 59. On or about August 1, 2017 Defendant Scotti forced Plaintiff to
2 remain in the outdoor recreation area against her will while he sexually assaulted
3 her.

4
5 60. Defendant Scotti intentionally deprived Plaintiff of her freedom of
6 movement by use of physical force, threats, and unreasonable duress. Defendant
7 Scotti exerted physical force upon Smith to prevent her from moving while he
8 sexually assaulted her. Deputy Scotti further threatened Plaintiff by saying “You do
9 what I say, or else it is going to be really bad for you here!”
10

11 61. The restraint and confinement by Defendant Scotti compelled
12 Plaintiff to stay in the recreation area for some appreciable time.
13

14 62. Plaintiff did not knowingly or voluntarily consent, but was instead
15 forced to comply with Defendant Scotti’s commands to stay in the recreation
16 area.
17

18 63. Plaintiff Smith suffered extreme mental anguish and pain and has
19 been injured in the mind and body, and Defendant’s conduct was a substantial
20 factor in causing Plaintiff’s harm.
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FOURTH CAUSE OF ACTION

NEGLIGENCE

(Against Deputy Scotti and Certain DOE Defendants)

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4 64. Plaintiff realleges all the foregoing paragraphs, as well as any
5 subsequent paragraphs contained in the complaint, as if fully set forth herein.
6

7 65. As a LASD deputy working at the CRDF, Deputy Scotti had a duty
8 to supervise and look after female inmates at the CRDF. As a LASD deputy
9 working at CRDF, DOE Defendants had a duty to supervise and look after
10 female inmates at CRDF.
11

12 66. Deputy Scotti breached his duty by sexually assaulting Plaintiff.
13

14 67. Deputy Scotti and DOE Defendants breached the duty by failing to
15 use such skill, prudence, and diligence as other members of the profession
16 commonly possess and exercise, and to supervise female inmates and look over
17 their well-being.
18

19 68. There was a proximate causal connection between Defendants'
20 negligent conduct and Plaintiff's resulting injuries and damages.
21

22 69. Defendants owed Plaintiff as a citizen a duty not to place her in an
23 environment that created an unreasonable risk of sexual abuse, and in fact,
24 resulted in sexual abuse. Defendants were negligent in the performance of their
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1 duties and this negligence caused the physical and mental injuries suffered by
2 Plaintiff Smith.

3 70. As a direct and proximate result of the aforesaid negligence and as a
4 result of their breach of duty of care to Smith, Plaintiff sustained injuries and
5 damages as alleged herein, in an amount to be proven at trial.
6

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8 **FIFTH CAUSE OF ACTION**

9 **NEGLIGENT SUPERVISION, HIRING, AND RETENTION**

10 **(Against Municipal Defendants)**

11 71. Plaintiff realleges all the foregoing paragraphs, as well as any
12 subsequent paragraphs contained in the complaint, as if fully set forth herein.
13

14 72. LASD and County hired Defendant Scotti.
15

16 73. Defendant Scotti was unfit and/or incompetent to perform the work
17 of a LASD sheriff deputy for which he was hired, and unfit and/or incompetent
18 for overseeing and supervising female inmates in a County-run jail.
19

20 74. County and LASD knew or should have known that Deputy Scotti
21 was unfit or incompetent and that his lack of fitness or incompetence created a
22 particular risk to others, including Plaintiff and other female inmates at the
23 CRDF.
24

25 75. County's and LASD's negligence in supervising, hiring, or retaining
26

27 Deputy Scotti was a substantial factor in causing Plaintiff's harm.

1 76. As a direct and proximate cause of County’s actions or inactions,
2 Plaintiff suffered extreme mental anguish and pain and has been injured in the
3 mind and body.

4
5 **SIXTH CAUSE OF ACTION**

6 **VIOLATION OF CALIFORNIA CIVIL CODE § 52.4;**
7 **(By Plaintiff against Deputy Scotti and Certain Doe Defendants)**

8 77. Plaintiff realleges all the foregoing paragraphs, as well as any
9 subsequent paragraphs contained in the complaint, as if fully set forth herein.
10

11 78. Plaintiff Smith suffered the deprivation, under color of statute,
12 ordinance, regulation, policy, custom, practice or usage of a right, privilege, and
13 immunity secured to her by the Constitution of the State of California and the
14 California Civil Code, § 52.4.
15

16 79. California Civil Code § 52.4 prohibits any person from committing
17 an act or acts of gender violence against another person.
18

19 80. Defendant Scotti committed violent acts against Plaintiff, together
20 with other misconduct, made he groped Plaintiff’s breasts, forced Plaintiff to
21 stroke his penis, forced himself upon her and kissed her, and threatened to
22 retaliate against her if she reported his actions
23

24 81. Defendant Scotti threatened use of physical force against Smith, and
25 did in fact, use physical force.
26

1 82. The conduct of Defendant Scotti was a physical intrusion and
2 physical invasion of a sexual nature under coercive conditions.

3 83. The conduct of Defendant Scotti was willful, wanton, malicious, and
4 done with reckless disregard for the rights and safety of Plaintiff and therefore
5 warrants the imposition of exemplary and punitive damages as to Deputy Scotti.
6 It is clear by the multiple victims of Deputy Scotti that his conduct was
7 intentional and willful and that his conduct warrants punitive damages.
8

9 84. Defendant's conduct was in violation of Cal. Civ. Code § 52.4, and
10 as a direct and proximate result of such violation, Plaintiff sustained injuries and
11 damage as alleged herein, in an amount to be proven.
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SEVENTH CAUSE OF ACTION

16
17 **VIOLATION OF CALIFORNIA CIVIL CODE § 52.1;**
18 **CALIFORNIA CONSTITUTION, ARTICLE 1, §13**
19 **(By Plaintiff against all Individual Defendants)**

20 85. Plaintiff realleges all the foregoing paragraphs, as well as any
21 subsequent paragraphs contained in the complaint, as if fully set forth herein.
22

23 86. California Civil Code § 52.1 (the Bane Act) prohibits any person
24 from interfering with another person's exercise of enjoyment of her constitutional
25 rights by threats, intimidation, or coercion.
26

1 87. Plaintiff Smith suffered the deprivation, under color of statute,
2 ordinance, regulation, policy, custom, practice or usage of a right, privilege, and
3 immunity secured to her by the Constitution of the State of California and the
4 California Civil Code, § 52.1.

6 88. During all times mentioned herein, individual Defendants, and
7 each of them, separately and in concert, acted under color and pretense of law.
8 Each of the individual Defendants herein, separately and in concert, deprived
9 Plaintiff of the rights, privileges and immunities secured to her by the
10 Constitution of the State of California, Article 1, section 13, as well as the
11 California Civil Code, § 52.1.
12

14 89. Plaintiff is informed, believes and therefore alleges, that on or about
15 August 1, 2017, Defendant Scotti, by his conduct, interfered by threats,
16 intimidation, or coercion, or attempted to interfere by threats, intimidation or
17 coercion, with the exercise or enjoyment of the her rights as secured by, *inter*
18 *alia*, the Fourth Amendment, Eighth Amendment and Fourteenth Amendment to
19 the United States Constitution, the laws of the United States, Article 1, § 13 of
20 the California Constitution, California Civil Code § 52.1, and the laws of the
21 State of California, including the Plaintiff's right to be free from bodily restraint
22 and harm, free from excessive force, and free from cruel and unusual
23 punishment.
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1 90. Defendant Scotti threatened that Plaintiff could not report the
2 incident of abuse or that he would retaliate against her, and further made threats
3 to force her compliance.
4

5 91. Defendants' conduct was in violation of Cal. Civ. Code § 52.1, and
6 as a direct and proximate result of such violation, Plaintiff sustained injuries and
7 damages as alleged herein, in an amount to be proved.
8

9 92. Defendant Scotti intentionally and spitefully committed the above
10 acts to discourage Plaintiff from exercising her civil rights.
11

12 93. The conduct of Defendant Scotti was willful, wanton, malicious, and
13 done with reckless disregard for the rights and safety of Plaintiff, and therefore
14 warrants the imposition of exemplary and punitive damages as to Deputy Scotti.
15 It is clear by the multiple victims of Deputy Scotti that his conduct was
16 intentional and willful and that his conduct warrants punitive damages.
17

18 94. Defendants' conduct was in violation of Cal. Civ. Code § 52.1, and
19 as a direct and proximate result of such violation, Plaintiff sustained injuries and
20 damages as alleged herein, in an amount to be proven.
21

22 95. Plaintiff seeks compensatory damages for the violation of her rights.
23 Plaintiff also seeks attorneys' fees under this claim.
24

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EIGHTH CAUSE OF ACTION

**VIOLATION OF CALIFORNIA CIVIL CODE § 1708.5
(By Plaintiff against all Defendants)**

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4 96. Plaintiff realleges all the foregoing paragraphs, as well as any
5 subsequent paragraphs contained in the complaint, as if fully set forth herein.
6

7 97. California Civil Code § 1708.5 prohibits any person from
8 committing a sexual battery against another person.
9

10 98. Deputy Scotti acted with intent to cause a harmful or offensive
11 contact with an intimate part of Plaintiff when he groped Plaintiff's breasts,
12 forced her to stroke his penis, and forced himself upon her and kissed her.
13

14 99. Defendant Scotti intentionally and spitefully committed the above
15 acts of sexual battery against Plaintiff.
16

17 100. The conduct of Deputy Scotti would offend a reasonable person of
18 ordinary caution and prudence is thereby offensive contact.
19

20 101. The conduct of Deputy Scotti was willful, wanton, malicious, and
21 done with reckless disregard for the rights and safety of Plaintiffs and therefore
22 warrants the imposition of exemplary and punitive damages as to Deputy Scotti.
23

24 102. As a direct and proximate cause of Deputy Scotti's actions, Plaintiff
25 suffered extreme mental anguish and pain and has been injured in the mind and
26 body.
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103. Plaintiff seeks compensatory damages for the violation of her rights. Plaintiff also seeks attorneys' fees under this claim.

NINTH CAUSE OF ACTION
ASSAULT AND BATTERY
(By Plaintiff Against Defendant Deputy Scotti)

104. Plaintiff realleges all the foregoing paragraphs, as well as any subsequent paragraphs contained in the complaint, as if fully set forth herein.

105. Deputy Scotti intentionally and spitefully committed the above acts of sexual battery against Plaintiff.

106. Defendant Deputy Scotti, acting within the scope of his employment as a deputy of LASD in and for the County of Los Angeles, assaulted and battered Plaintiff Smith causing her physical and mental injury.

107. By the conduct alleged above including, but not limited to, forcing himself upon Smith and sexually abusing and assaulting her on numerous occasions, Defendant Scotti is liable for assault and battery.

108. Deputy Scotti intentionally and inappropriately touched and sexually assaulted Plaintiff when he groped Plaintiff's breasts, forced her to stroke his penis, and forced himself upon her and kissed her, with the intent to harm and offend her.

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109. Plaintiff did not consent to Deputy Scotti's conduct.

110. A reasonable person in Plaintiff Smith's position would have been offended by the touching.

111. Deputy Scotti did not have legal justification for touching Plaintiff. His actions were excessive and unreasonable.

112. The conduct of Deputy Scotti was willful, wanton, malicious, and done with reckless disregard for the rights and safety of Plaintiff and therefore warrants the imposition of exemplary and punitive damages as to Deputy Scotti.

113. As a direct and proximate cause of Deputy Scotti's actions, Plaintiff suffered extreme mental anguish and pain and has been injured in the mind and body, in an amount to be proven.

PRAYER FOR RELIEF

WHEREFORE Plaintiff prays for judgement against Defendants, and each of them, according to proof, as follows:

1. General and compensatory damages in an amount according to proof;
2. Special damages in an amount according to proof;
3. Exemplary and punitive damages against each Defendant, except the COUNTY and LASD, in an amount according to proof;
4. Costs of suit, including attorneys' fees, under 42 U.S.C. § 1988,

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California Code of Civil Procedure § 1021.5 and any other applicable provision of law;

5. Such other relief as may be warranted or as is just and proper.

DATED: March 15, 2018

Respectfully Submitted,

/s/ George G. Mgdesyan
George G. Mgdesyan, Esq.
Attorney for Plaintiff
PAULINE SMITH

JURY DEMAND

Trial by jury of all issues is demanded.

DATED: March 15, 2018

Respectfully Submitted,

/s/ George G. Mgdesyan
George G. Mgdesyan, Esq.
Attorney for Plaintiff
PAULINE SMITH