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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MICHAEL CAMERON SHUTS,
Plaintiff,
vs.

Case No.

CITY OF SCOTTS VALLEY; POLICE
OFFICER JOHNSON; POLICE OFFICER
LOPEZ; POLICE OFFICER DOE; KAISER
PERMANENTE; TYLER HENSEL, M.D.;
DOES 1-20,
Defendants.

**COMPLAINT FOR VIOLATION OF CIVIL
RIGHTS AND DAMAGES;**

JURY TRIAL DEMANDED

JURISDICTION

1. This action arises under Title 42 of the United States Code, §§ 1983 and 1988, and the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq. Jurisdiction is conferred upon this Court by Title 28 of the United States Code, §§ 1331 and 1343 and 42 U.S.C. § 12188(a). This Court also has supplemental jurisdiction over Plaintiff's state law causes of action under 28 U.S.C. § 1367.

2. Venue is proper in the Northern District of California pursuant to 28 U.S.C. § 1391(b) because the unlawful acts and practices alleged herein occurred in the City of SCOTTS VALLEY, California, which is within this judicial district.

1 inclusive, whether individual or official capacity, and therefore sue these Defendants by such
2 fictitious names. Plaintiff is informed and believes and thereon alleges that each Defendant so
3 named was employed by Defendant SCOTTS VALLEY or KAISER PERMANENTE at the time of
4 the conduct alleged herein. Plaintiffs allege that each of Defendants DOES 1-20 aided, abetted
5 and/or encouraged, directed, enabled and/or ordered other Defendants to engage in such conduct
6 and/or was responsible for the training, supervision and/or conduct of the police employees and/or
7 agents involved in the conduct alleged herein. Plaintiff alleges that each of Defendants DOES 1-20
8 was also responsible for and caused the acts and injuries alleged herein. Plaintiff will amend his
9 complaint to state the names and capacities of DOES 1-20, inclusive, when they have been
10 ascertained.

11 12. For state law causes of action, Plaintiff is required to comply with statutory tort claim
12 requirements. Plaintiff has complied with all applicable requirements: Plaintiff timely presented a
13 claim to the Clerk of the CITY OF SCOTTS VALLEY, which was received via certified mail return
14 receipt on March 27, 2017, and denied by letter and Notice of Rejection served on April 5, 2017.

15 13. Concerning Plaintiff's medical malpractice claim, Plaintiff is required to comply with
16 statutory tort claim requirements. Plaintiff has complied with all applicable requirements: Plaintiff
17 timely presented a "90 Day Notice of Intention to Sue Pursuant to California CCP § 364, et seq.,"
18 which was mailed by U.S. mail certified return receipt on March 30, 2017.

19 PRELIMINARY ALLEGATIONS

20 21 14. Defendant SCOTTS VALLEY is a public entity and is sued under Title 42 U.S.C. §§
22 1983 and 1988 for violations of the Fourth and Fourteenth Amendments of the United States
23 Constitution, Title II of the Americans with Disabilities Act, California state law, the California Tort
24 Claims Act, and the Government Code for the acts and omissions of the SCOTTS VALLEY Police
25 Department, the individual named officers, and DOES 1-20, and each of them, who at the time they
26 caused Plaintiff's injuries and damages were duly appointed, qualified and acting officers,
27 employees, and/or agents of SCOTTS VALLEY and acting within the course and scope of their
28 employment and/or agency. In engaging in the conduct described herein, the individual officers and

1 DOES 1-20, inclusive, exceeded the authority vested in them as public employees under the United
2 States and California Constitutions as well as the authority vested in them as police officers and
3 supervisors employed by Defendant SCOTTS VALLEY.

4 15. Plaintiff alleges that the conduct of each governmental Defendant deprived Plaintiff
5 Shuts of his constitutional rights to be free of false arrest and excessive force, and his federal
6 statutory right of disability accommodation, causing him to suffer grievous harm and physical
7 injuries.

8 16. Defendant KAISER PERMANENTE is a private, for-profit medical provider.
9 Defendant Dr. HENSEL is a physician employee and agent of KAISER PERMANENTE. These
10 Defendants along with the KAISER DOE Defendants are sued under California law inter alia for
11 medical malpractice, patient abandonment and false imprisonment arising out of the same incident of
12 February 6, 2017, that gave rise to Plaintiff's constitutional claims against the governmental
13 Defendants. Plaintiff alleges that all Defendants, both governmental and private, jointly and
14 collectively acted to cause Plaintiff's injuries and damages such that this one forum is necessary to
15 resolve matters raised in Plaintiff's Complaint and to avoid conflicting rulings from different forums.

16 17. Each of the Defendants caused and is jointly and individually responsible for the
17 unlawful conduct and resulting harm by, inter alia, personally participating in the conduct, or acting
18 jointly and in concert with others who did so, by authorizing, acquiescing, condoning, acting,
19 omitting or failing to take action to prevent the unlawful conduct, by promulgating or failing to
20 promulgate policies and procedures pursuant to which the unlawful conduct occurred, by failing and
21 refusing to initiate and maintain proper and adequate policies, procedures and protocols, and by
22 ratifying and condoning the unlawful conduct performed by agents and officers, deputies, medical
23 providers and employees under their direction and control.

24 18. Whenever and wherever reference is made in this Complaint to any act by Defendants,
25 each Defendant was the agent of the others, was acting within the course and scope of this agency,
26 and all acts alleged to have been committed by any one of them shall also be deemed to mean the
27 acts and failures to act of each Defendant and DOE Defendants individually, jointly or severally.
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STATEMENT OF FACTS

KAISER PERMANENTE Denies Plaintiff's Requests for Continuing Care and Psych Referral

19. Plaintiff Shuts is a 60-year-old grandfather with multiple disabilities. Within the several years before coming to KAISER PERMANENTE, Mr. Shuts suffered two heart attacks requiring four stents. In 2015, Mr. Shuts suffered a stroke that left him with diminished cognitive ability. Mr. Shuts also suffers from chronic pain and has required multiple surgeries to his spine, including an artificial disk and a 3-level fusion. Mr. Shuts also suffers from diabetes, AFIB, asthma, high blood pressure and depression associated with his debilitating medical condition. Prior to having to leave his work entirely due to disability, Mr. Shuts worked for many years in the private security industry for First Alarm. As an individual in the security business, Mr. Shuts has always had a positive regard and respect for the law and the individuals that are charged with enforcing it.

20. Mr. Shuts receives healthcare coverage through his wife's employer's insurance plan. Mr. Shuts' wife, Victoria Shuts, L.F.M.T., works as a mental health specialist for Santa Cruz city school district. After considering the advertised benefits of KAISER PERMANENTE, the Shuts family decided to switch over from Dignity Health.

21. Starting on January 1, 2017, Mr. Shuts was a member of the KAISER "family." Mr. Shuts' first appointment to meet his primary care physician was January 4, 2017. Leading up to that appointment, considering the extent of his maladies and mental health needs, Mr. Shuts specifically requested to be permitted the continuing care of his former psychiatric health care specialists during the transition to KAISER PERMANENTE. KAISER PERMANENTE expressly denied Mr. Shuts' continuing care request. Because of this denial, it was imperative that Mr. Shuts received prompt and appropriate services within the KAISER network to meet his immediate and ongoing health needs.

22. On January 4, 2017, Mr. Shuts met with Dr. Bao Anh Le Nguyen, who was to be his new primary care provider, for his thirty-minute initial meeting. Dr. Nguyen noted all of the previously listed maladies from which Mr. Shuts suffered. He noted no neurological problems. He noted that Mr. Shuts' appearance was alert, well appearing, and that he was in no distress and oriented as to person, place and time. Dr. Nguyen noted no change in social history. Dr. Nguyen

1 further noted that Mr. Shuts enjoyed “normal mood, behavior, speech, dress, motor activity and
2 thought process.” Finally, Dr. Nguyen noted that Mr. Shuts felt safe at home, that he was not
3 threatened and that no domestic violence issue existed.

4 23. Mr. Shuts had one request of Dr. Nguyen – a psych referral so that he could have
5 cognitive testing to measure the impact of his stroke and the recovery progress he had made since
6 that time. At the end of the meeting, Dr. Nguyen agreed to make the psych referral but also
7 suggested perhaps he was not the most appropriate primary care provider (“PCP”) for Mr. Shuts.
8 Dr. Nguyen informed Mr. Shuts that he would likely be meeting his new PCP at his next scheduled
9 appointment.

10 24. An entire month then passed with no psych referral from KAISER PERMANENTE and
11 before Mr. Shuts’ next appointment.

12 **February 6, 2017, Appointment with New PCP:**
13 **HENSEL Calls Police on “Well Appearing” Plaintiff In Place of Requested Psych Referral**

14 25. On February 6, 2017, Mr. Shuts arrived at his 1:30 p.m. appointment with Defendant Dr.
15 Tyler Don HENSEL who was to be Mr. Shuts’ new PCP. Mr. Shuts first met with a nurse
16 Angelique B. Castelan. In that time, Nurse Castelan took Mr. Shuts’ vitals and administered a
17 routine Adult Outcomes Questionnaire (AOQ). Mr. Shuts apparently scored a 24 on that
18 questionnaire.

19 26. Defendant Dr. HENSEL then entered the room. Dr. HENSEL questioned Mr. Shuts
20 briefly about his present mental state and asked if Mr. Shuts had received his referral to psychiatry
21 yet. Mr. Shuts responded that he had not yet been contacted by psychiatry and reiterated his desire
22 for a psychiatric consultation. Dr. HENSEL stated that he should have initially been contacted
23 within 24 hours.

24 27. The AOQ can be a useful tool to make a tentative depression diagnosis. When
25 interpreting an AOQ, medical practitioners are cautioned to rule out physical and medical causes of
26 depression. A provisional diagnosis of major or severe depression suggests possible appropriateness
27 of antidepressant medication and psychotherapy or a combination of the two. However, Mr. Shuts
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1 had been requesting to see a psychotherapist for the past month due to a felt impact of his physical
2 condition on his cognitive ability due to his stroke, not because of acute psychiatric distress.

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4 28. Defendant HENSEL glanced at the AOQ form without asking Mr. Shuts any follow up
5 questions related to his answers on the form, such as why he indicated that he was not eating or
6 sleeping well and not engaged in prior sports and activities that gave him pleasure. In fact, the life
7 changes addressed in the questionnaire resulted directly from Mr. Shuts' medical conditions and not
8 issues related to suicidality.

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10 29. Had Dr. HENSEL asked basic questions about Mr. Shuts' answers to the AOQ, Mr.
11 Shuts would have told him that he was having trouble sleeping due to night sweats, that he was
12 eating less due to his diabetes, and that he could not partake in his previous hobbies such as biking or
13 kayaking because he was not yet strong enough to resume these activities. In other words, basic
14 investigation would have revealed that the answers on the AOQ were not related to a present threat
15 of suicide.

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17 30. Defendant Dr. HENSEL asked only if Mr. Shuts had ever thought about suicide. Mr.
18 Shuts honestly answered that he had two months before back in December when his health issues
19 seemed insurmountable. Dr. HENSEL then asked if Mr. Shuts had "plan and means." Mr. Shuts
20 stated that back in December he *could have* just stopped fighting to live; he *could have* skipped
21 several meals and his diabetes may have put him into a coma. Mr. Shuts qualified his remark by
22 telling Dr. HENSEL that since December he had sought out counseling and went on anti-depressant
23 medication and that he was feeling much better.

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25 31. Aside from indicating he was "feeling down" on the questionnaire, Mr. Shuts did not
26 affirmatively complain about feeling depressed to Dr. HENSEL on February 6, 2017. He did not
27 express feeling in imminent danger of self-harm. He exhibited no behaviors indicating a present
28 suicidal intent. To the contrary, he emphasized how counseling and medication had helped his earlier
struggle with major depression and significantly lessened it.

32. Dr. HENSEL stated that he would make sure that Mr. Shuts' previously requested
psychiatric referral was accomplished this time (by February the referral was a good month late) and,

1 without further ado, he left the room. Dr. HENSEL noted in his records that Mr. Shuts had an
2 upcoming memory evaluation. He asked Mr. Shuts to wait for him to return with the referral.

3 33. Unknown to Mr. Shuts, on Dr. HENSEL's orders, KAISER PERMANENTE staff
4 member Brenda Kim George called for police assistance with a 5150 involuntary mental health hold
5 based on the doctor-patient discussion concerning suicidal thoughts from two months before.

6 34. No one, neither KAISER PERMANENTE staff nor the Defendant officers who
7 ultimately responded, ever advised Mr. Shuts of any decision to conduct a 5150 hold. No one from
8 KAISER PERMANENTE ever read Mr. Shuts the mandatory 5150 verbal admonition informing
9 him of his rights as someone who is being involuntarily detained for psychiatric observation. No
10 one from KAISER PERMANENTE filled out the mandatory 5150 paperwork required any time
11 someone is detained pursuant to that section. For all Mr. Shuts knew, his new doctor, Defendant
12 HENSEL, was in the process of arranging a psychiatric referral so that he could have cognitive
13 testing to measure the cognitive impact of his stroke and the recovery progress he had made since
14 that time.

15 35. During his meeting with his new doctor, Mr. Shuts was at all times calm and
16 appropriate. Dr. HENSEL wrote in his notes: "*vital signs reviewed and alert, well appearing and in*
17 *no distress.*"

18 36. No one from KAISER PERMANENTE contacted or made arrangements with any
19 psychiatric facility that could house Mr. Shuts during any involuntary mental health detention.

20 **KAISER PERMANENTE Nurse Blocks Plaintiff from Leaving Exam Room**

21 37. After waiting approximately a half hour for Dr. HENSEL to return, Mr. Shuts started to
22 leave. He had a 3 p.m. appointment and needed to pick up his granddaughter from school to go to a
23 family self-paid mental health counseling appointment scheduled for that evening that he did not
24 want to miss. However, Mr. Shuts' first attempt to leave was physically impeded by a KAISER
25 PERMANENTE nurse and DOE defendant. Holding her hand on the door handle, the nurse
26 physically blocked Mr. Shuts from leaving and told him to stay in the examination room. She
27 insisted he wait longer, assuring him the doctor would soon return with the requested referral. Mr.
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1 Shuts noticed a female, whom he recognized to be the security guard whom he had previously spoke
2 with several times, standing across the hall. She was dressed typically in all black with a gold
3 badge.

4 38. As a result of the refusal to permit him to leave and not wanting to physically confront
5 the nurse, Mr. Shuts sat back down in the exam room to wait a bit longer for the doctor to return
6 with the referral. His wife Victoria called his cellphone during this period to inquire about the
7 meeting with Dr. HENSEL, to confirm that he was picking up their granddaughter from school, and
8 to remind him of a counseling appointment coming up later that day. The two had a pleasant
9 conversation as he calmly explained that he was waiting for the doctor to return. Another fifteen
10 minutes passed and Mr. Shuts was getting concerned that he was going to be late for his 3:00 p.m.
11 appointment.

12 39. Defendant Dr. HENSEL failed to reappear with the requested psych referral. By then,
13 Mr. Shuts was approaching an hour-and-a-half into his thirty-minute appointment. Dr. HENSEL was
14 never to return.

15 **Scotts Valley Police Officers JOHNSON, LOPEZ,**
16 **and DOE Assault Plaintiff as He Attempts to Leave Exam Room**

17 40. Fearing he was going to be late for his 3 p.m. appointment and pick up of his
18 granddaughter, Plaintiff Shuts stood up again to leave. Mr. Shuts again opened the door of the exam
19 room. The same nurse attempted again to block him for presumably the same reason that Dr.
20 HENSEL had not returned. Mr. Shuts said, "I need to leave. I've got a 3:00 appointment. Please
21 have the doctor text me the appointment time."

22 41. Dr. HENSEL's nurse was still holding onto the door and standing in the door's opening
23 blocking Mr. Shuts' path. She again told him to return inside the room and wait. Mr. Shuts repeated
24 firmly, "No, I'm leaving." The nurse backed off as Mr. Shuts went out the door. The female security
25 guard was still standing across the hall. However, Mr. Shuts was not concerned because that security
26 guard was familiar to him and had been generally present from the time he first arrived to meet his
27 doctor. The security guard said nothing to Mr. Shuts.

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1 42. As Mr. Shuts stepped out of the exam room explaining he needed to leave for his 3:00
2 appointment, three large men – presently known to be Defendants JOHNSON, LOPEZ and Officer
3 DOE – approached him from behind. The three men had been standing outside Mr. Shuts’ exam
4 room waiting for him to emerge.

5 43. Like the private Kaiser security guards, the three men were dressed all in black with gold
6 badges. They wore black cargo pants and black tactical over-shirts, which covered their guns and
7 utility belts. None of the officers identified themselves to Mr. Shuts or explained their purpose.

8 44. Out of the blue, the lead and closest of the three officers, Officer DOE, aggressively
9 commanded Mr. Shuts to “sit down!” Believing them to be security guards, Mr. Shuts repeated that
10 he needed to leave. Without saying anything more, the same closest Officer DOE immediately
11 grabbed Mr. Shuts hard by the arm. Mr. Shuts reflexively withdrew his arm from this still
12 unidentified man’s painful grasp. The three men in black with gold badges, like Kaiser’s security
13 guard, still had not identified themselves as police officers. The officers made no further attempt to
14 talk to Mr. Shuts or inform him of their purpose.

15 45. Plaintiff Shuts had no reason to anticipate a police presence. He had at all times been
16 calm and appropriate in his demeanor with KAISER PERMANENTE staff. Nothing had happened
17 in his medical consultation with Dr. HENSEL to suggest that his doctor would call the police instead
18 of doing as promised: make a psychiatric referral to measure cognitive deficit and recovery from his
19 stroke.

20 46. Upon Mr. Shuts’ retrieving his arm from the lead Officer DOE’s grasp, Officers DOE,
21 JOHNSON and LOPEZ immediately, and for no clear reason or need, gang-tackled Mr. Shuts. They
22 shoved him back through the exam room door. Then, using great physical force and the collective
23 weight of their bodies, they body slammed the 60-year-old disabled man to the concrete exam room
24 floor face down without giving any further verbal commands.

25 47. Attempting to break the full weight of the fall, Mr. Shuts landed hands first and then was
26 unable to extract his hands, leaving him defenseless. Acting at all times collectively, one of the
27 officers then, again, smashed Mr. Shuts’ head onto the floor, causing him severe pain and head
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1 trauma. The other two officers attacked Mr. Shuts in this helpless position - as he lay pinned on his
2 hands - both from the side and back, attempting to punish, forcibly restrain and handcuff Mr. Shuts
3 for what offense he had not a clue. Stunned by the surprise attack, Mr. Shuts did not offer physical
4 resistance beyond passively bracing himself against the continuing attack.

5 48. As he lay pinned on the ground, Mr. Shuts cried out, "Who are you guys?" Instead of
6 identifying themselves as police officers, one of the large men pressed Mr. Shuts head harder onto
7 the floor with both arms using the full heavy weight of his body. The second officer repeatedly
8 jammed his knees into Mr. Shuts' back with his full weight while using it as a point of leverage to
9 yank and twist Mr. Shuts' arm as he forcefully ripped it from under Mr. Shuts. The third still
10 unidentified man, Officer DOE, the initial one who grabbed Mr. Shuts, used all his considerable
11 strength, to twist and wrench at Mr. Shuts' other arm, pulling it from under Mr. Shuts' body weight
12 to behind his back.

13 49. Face down with Defendants JOHNSON, LOPEZ and Officer DOE piled on top of him,
14 Mr. Shuts asked as calmly as he could muster, "Do you realize you are assaulting a 60-year-old man
15 with multiple disabilities?" Again, the officers said nothing in response and continued to struggle
16 with each other over their mutually contradictory actions and painful leveraging of Mr. Shuts'
17 appendages.

18 50. The Defendant officers then secured Mr. Shuts in handcuffs so tight that they cut into his
19 arms, causing his right arm to bleed and causing long-term neurological damage to his hands. The
20 excessively tight handcuffing was unnecessary and punitive. Additionally, Mr. Shuts was not cuffed
21 in the conventional manner used by law enforcement, either behind or in front. He was cuffed so that
22 he could not rotate his wrists, and his hands were cuffed high between his shoulder blades and left
23 that way.

24 51. Mr. Shuts told one of the Defendant officers that his handcuffs were too tight, they were
25 very painful and he was losing feeling in his hands. He asked for the handcuffs to be loosened. The
26 officer answered, "They are going to stay that way for a while." The other two officers were present
27 during this exchange and, by their silence, indicated their agreement.
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1 52. To Mr. Shuts' extreme humiliation, Defendant officers JOHNSON, LOPEZ and DOE
2 proceeded to drag him, disoriented, battered and bleeding in handcuffs, out of his exam room, down
3 the facility's hallway, down the clinic stairs, outside and into a police cruiser in full view of other
4 KAISER PERMANENTE patients and clinic staff watching, at once curious and aghast.

5 53. As the still unidentified men were dragging Plaintiff out of the clinic in handcuffs, Mr.
6 Shuts finally realized that they were in fact police officers. Their shoulder patches, now visible to
7 Mr. Shuts, identified them as SCOTTS VALLEY police officers. In the chaos the officers had
8 caused, Mr. Shuts had not seen anything on the front of their uniforms that identified them to him as
9 police officers, as opposed to private security, which also wore badges. At no time did Mr. Shuts'
10 attackers announce themselves as police officers to him.

11 54. Defendant officers JOHNSON, LOPEZ and DOE then left Mr. Shuts sitting in the back
12 of the police car with the excruciatingly painful handcuffs still on for approximately fifteen minutes
13 more while the officers stood around and traded jokes. One of the officers finally returned to the
14 police car and told Mr. Shuts that he was not under arrest; he was "only being detained." Detained:
15 Bleeding, shoulders wrenched beyond their range, hands going numb, locked in a hot patrol car
16 having committed no offense.

17 55. American Medical Response (AMR) paramedics arrived and checked Mr. Shuts' vitals
18 and sugar levels. He was still in the excessively tight handcuffs. On information and belief, AMR
19 had been advised of Mr. Shuts' known heart condition and the effect of the physical confrontation on
20 his medically compromised heart. After the AMR paramedics examined Mr. Shuts, one officer
21 finally agreed to readjust his handcuffs this time with normal tightness.

22 56. Defendant Officers LOPEZ and JOHNSON then transported Mr. Shuts directly to the
23 Santa Cruz County Jail. There he was booked for the misdemeanor charge of resisting a police
24 officer, examined by jail medical staff, detained for four to five hours, and then released on his own
25 recognizance (OR). He was never evaluated for mental health issues by the jail crisis intervention
26 team. Mr. Shuts was provided a "Release and Promise to Appear" at 8:30 a.m. on March 9, 2017, for
27 alleged misdemeanor violation of California Penal Code 148(a) (1).
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57. Defendant officers JOHNSON, LOPEZ and DOE at no point made any attempt to take Mr. Shuts to be evaluated by a mental health provider or psychiatrist, or hospitalized in a psychiatric unit. No officer attempted to read Mr. Shuts the mandatory 5150 verbal admonition informing him of his rights as someone who is being involuntarily detained for psychiatric observation. The officers did not fill out the mandatory 5150 state-issued paperwork required any time someone is detained pursuant to that section. The involuntary psychiatric evaluation was the only purported basis for police intervention.

58. On February 23, 2017, the Santa Cruz District Attorney's Office declined to file any charges against Mr. Shuts finding no probable cause for the officers' actions.

Dr. HENSEL Compounds Harm of False 5150 by Abandoning His Patient

59. Defendant Dr. HENSEL based his decision to call police for a 5150 hold on the AOQ questionnaire and Mr. Shuts' qualified answers to distant past mentations that had since changed considerably. Mr. Shuts plainly verbalized that he had much improved since December 2016 with therapeutic counseling and anti-depressant medications.

60. Dr. HENSEL neglected to inform Mr. Shuts of his plan to place him on an involuntary psychiatric hold pursuant to Section 5150 of the California Welfare and Institutions Code. Dr. HENSEL never asked Mr. Shuts if he would voluntarily agree to psychiatric observation. Dr. HENSEL never even conveyed to Mr. Shuts that he was concerned about his past suicidal thoughts. Dr. HENSEL failed to fill out the mandatory state Application for Assessment, Evaluation and Crisis Intervention or Placement for Evaluation and Treatment Form (DHCS 1801) or even to read the state-mandated detention advisement to Mr. Shuts.

61. Instead of notifying Mr. Shuts of his intention to place him on a 5150 hold, Dr. HENSEL left the room with the announced plan of checking into the requested mental cognition referral and then further betrayed Mr. Shuts' trust by having KAISER PERMANENTE staff call the SCOTTS VALLEY police in secret to come detain his patient.

62. Dr. HENSEL noted no behavior in Mr. Shuts, such as aggression or psychosis that would justify a forceful and undisclosed 5150 hold. After betraying Mr. Shuts' trust by calling the

1 police on him in secret, Dr. HENSEL compounded the harm by failing to return to tell Mr. Shuts
2 what the next steps would be, failing to meet up with the police and failing to assure his patient's
3 safety during this process. Dr. HENSEL abandoned Mr. Shuts under the worst possible
4 circumstances.

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6 **Dr. HENSEL's Blatant Disregard for 5150 Protections Exemplifies
KAISER PERMANENTE's History of Systemic Abuses**

7 63. Strong testament to ongoing systemic problems at KAISER PERMANENTE, the
8 purported reason for Dr. HENSEL's extraordinary measures was written in his chart: "need to get pt
9 safe today, *no psych here*. Mind phone SJ suggest Tx to SJ Kaiser Permanente or Dominican."
10 Because KAISER PERMANENTE Scotts Valley lacked even on-call psychiatric services, Dr.
11 HENSEL evidently decided his only option was to send Mr. Shuts to an involuntary psychiatric
12 facility. KAISER PERMANENTE suggested Dominican or a KAISER facility in San Jose. Dr.
13 HENSEL's neglect and abandonment of his patient assured that none of KAISER PERMANENTE's
14 "suggestions" came to pass.

15 64. In fact, Dominican has not had a psychiatric facility in operation for several years prior.
16 And Telecare, the only behavioral health unit ("BHU") located in Santa Cruz County, was not
17 contacted regarding Mr. Shuts. In addition, the SCOTTS VALLEY police, not being properly
18 apprised of the circumstances, did not ever 5150 Mr. Shuts. Instead, they gang-tackled the disabled
19 and medically vulnerable Mr. Shuts, charged him with resistance of processes of which he had no
20 notice, and took him straight to jail. These injuries were all compounded by Dr. HENSEL's glaring
21 absence and failure to communicate with either his patient or the police.

22 65. Dr. HENSEL's progress notes fail to reveal any meaningful psychosocial analysis of Mr.
23 Shuts that would cause a reasonable physician to take such drastic measures. Dr. HENSEL ignored
24 Mr. Shuts' "well-appearing" demeanor and Mr. Shuts' assurances that he was doing much better. He
25 failed to make essential inquiries into Plaintiff's positive support network. He never considered
26 voluntary alternatives to an immediate, involuntary psychiatric hold.

27 66. Dr. HENSEL concluded: "major depressive disorder, recurrent episode severe." "Here
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1 to establish care; he is reporting depression for months with SI [suicidal ideation]... He has ‘means
2 and a plan’ for self harm. AOQ24/24.” No actual facts stated by Mr. Shuts beyond the foregoing
3 broad conclusions were recorded. On the preceding page of these same notes, Dr. HENSEL wrote
4 “*vital signs reviewed and alert, well appearing and in no distress.*” All physical observations made
5 by Dr. HENSEL flatly contradict any conclusion that Mr. Shuts was in imminent danger of self-
6 harm.

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8 67. Dr. HENSEL ended his progress notes with a directive: “Follow-up PRN after safety
9 ensured.” This directive in Dr. HENSEL’s progress notes is consistent with existing standards of
10 care. However, contrary to self-articulated standard of care, Mr. Shuts’ safety was absolutely *not*
11 *ensured*. Dr. HENSEL also never followed up with Mr. Shuts to determine that fact despite the
12 express duty that he acknowledged in his notes. Dr. HENSEL was wholly absent during Mr. Shuts’
13 encounter with the police that Dr. HENSEL himself planned and orchestrated. He remained absent at
14 all times thereafter.

15 68. Plaintiff Shuts, as a result of the doctor’s bungled intervention was the *very opposite of*
16 *safe*. After assaulting Mr. Shuts, the Scotts Valley police Defendants transported him to jail instead
17 of a psychiatric observation facility. Indeed, no one from KAISER PERMANENTE ever contacted
18 Mr. Shuts or followed up on his care. Dr. HENSEL and KAISER PERMANENTE completely
19 abandoned Mr. Shuts, which further compounded his injuries by the police.

20 69. KAISER PERMANENTE never checked on Mr. Shuts, never scheduled the requested
21 cognitive testing, and never scheduled follow up appointments with any KAISER provider. No one
22 from KAISER PERMANENTE ever called Mr. Shuts to ask if he was okay.

23 70. On information and belief, it is a violation of standards of care to fail to provide a patient
24 who had been 5150’d with prompt and proper follow-up with a psychiatrist who could prescribe and
25 adjust any needed medications. KAISER PERMANENTE had only a social worker available to meet
26 with Mr. Shuts almost two months after entering the KAISER network.

27 71. Eleven days later, on February 17, 2017, Mr. Shuts met with a KAISER
28 PERMANENTE psychiatric *social worker* Richard Sean Galvan (not a psychiatrist). The

1 appointment had been scheduled long prior to Mr. Shuts' disastrous introduction to Dr. HENSEL.
2 This was KAISER PERMANENTE's apparent answer to the "continuation of psychiatric care"
3 request, which was denied by KAISER PERMANENTE. This first counseling appointment since
4 joining KAISER PERMANENTE in early January 2017 was scheduled at another location in the far
5 south of Santa Cruz County.

6 72. Upon arriving at his appointment, a security officer popped out of the Security office and
7 Mr. Shuts was escorted through the facility by a security guard who did not leave him throughout the
8 course of his appointment. The guard's cold and watchful demeanor made Mr. Shuts uneasy. It gave
9 the strong impression he was being viewed as a threat. The guard took Mr. Shuts to a completely
10 stripped down room with nothing in it but two metal chairs. The guard stood outside the door the
11 entire time that Mr. Shuts meet with the social worker.

12 73. The interview that followed was further humiliating. KAISER PERMANENTE's social
13 worker Galvin was anything but warm. His cold demeanor reinforced Mr. Shuts' impression that he
14 was being prejudged as a dangerous person and a criminal. On information and belief, the KAISER
15 PERMANENTE computer had flagged Mr. Shuts as such, which is why the security guard followed
16 him the entire time at that facility.

17 74. Mr. Shuts asked Mr. Galvan about the guard and he denied any knowledge of the
18 policies of the facility regarding security, even though he is the director of that facility. Mr. Shuts
19 described to Mr. Galvan his terrible experience with Dr. HENSEL but received no apologies or
20 sympathy. Instead Mr. Galvan used Mr. Shuts' palpable anger at the way he was treated by KAISER
21 PERMANENTE staff to negatively assess Mr. Shuts' "symptoms."

22 75. Mr. Galvan kept changing the subject from Mr. Shuts' legitimate concerns at his
23 treatment by KAISER PERMANENTE staff to the social worker's imposed "treatment goals." Mr.
24 Galvan expressed no interest in Mr. Shuts' challenges with his adult daughter that were of great
25 concern to Mr. Shuts. Mr. Shuts and his wife were raising her child, his granddaughter, due to his
26 daughter's extreme dysfunction and addiction. Mr. Shuts told Mr. Galvan that he intended to leave
27 KAISER PERMANENTE. Mr. Galvan talked him into a follow up phone consultation and further
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1 one-on-one appointment. Thereafter, no one from KAISER PERMANENTE ever contacted Mr.
2 Shuts to follow up for any manner of appointment.

3 76. Notwithstanding Mr. Galvin's cool reception of Mr. Shuts, the social worker did make
4 pertinent observations directly contradicting Dr. HENSEL's conclusion that Mr. Shuts required
5 immediate involuntary psychiatric intervention. Mr. Galvan noted that Mr. Shuts had *never*
6 *attempted suicide*. He noted that Mr. Shuts had *never suffered psychiatric hospitalization*. Mr.
7 Galvan noted *no previous diagnosis*. Mr. Galvan noted *no outpatient therapy*. Mr. Galvan's mental
8 status exam noted *no significant distress*. Mr. Galvan noted *no suicidal risk*.

9 77. When assessing suicidal risk, Mr. Galvan considered several protective factors: "clear
10 future orientation, vigilant care givers/positive social support, no history of previous attempts,
11 children under 18 and responsible for family, denies firearm possession and credibly contracts to
12 monitor emotional state, refrain from self harm, and use emergency services and needed."

13 78. Dr. HENSEL did not consider any of these protective factors despite their being equally
14 present on February 6, 2017. Mr. Galvan at no time suggested that Mr. Shuts presented in any
15 manner warranting his being 5150'd.

16 79. Of note is that Mr. Shuts again scored the same 24/24 on the AOQ questionnaire.
17 However, in context of Mr. Shuts' medical condition, the social worker properly recognized that the
18 score was not relevant to immediate concerns of suicidality because other benign factors such as
19 medical issues contributed equally to the assessed score. Seeing no cause for alarm or immediate
20 intervention, Mr. Galvan concluded three to four outpatient therapy treatments to start in one to two
21 weeks would suffice for treatment. Mr. Galvan did not even recommend that Mr. Shuts see a
22 licensed psychiatrist or psychologist.

23 80. Mr. Galvan again gave no apologies for, or acknowledgement of, Dr. HENSEL's
24 abandoning Mr. Shuts after unnecessarily calling the police to forcibly remove his patient to a
25 psychiatric facility. In the subsequent telephone appointment Mr. Shuts confronted Mr. Galvan's
26 denial of any knowledge concerning the room, the guards, or that Mr. Shuts had been flagged in
27 some way that triggered a "security protocol". Mr. Shuts explained the severe PTSD and anxiety the
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1 treatment at KAISER PERMANENTE provoked. That with the breach of trust and suspicion that
2 the targeting of him from appointment to appointment by KAISER PERMANENTE meant that Mr.
3 Shuts would not be continuing counseling there.

4 81. Plaintiff Shuts made every effort from that point forward to escape KAISER
5 PERMANENTE's network. For weeks KAISER PERMANENTE ignored and fought Mr. Shuts'
6 attempts to return to Dignity Health until Mr. Shuts sought legal intervention. The appointment with
7 social worker Galvan underscores how completely unwarranted, recklessly dangerous and grossly
8 under-documented was Dr. HENSEL's attempt to involuntarily detain Mr. Shuts on February 6,
9 2017.

10 82. Plaintiff Shuts finally managed to leave KAISER PERMANENTE's network. He is now
11 receiving adequate physical and mental health care through a different provider. However, the
12 injuries he sustained are grave and lasting.

13 83. Unfortunately, the occurrence with Mr. Shuts fits into a well established pattern at
14 KAISER PERMANENTE. Within the past several years the KAISER PERMANENTE network has
15 been repeatedly made aware of gross deficiencies regarding its failure to provide adequate
16 psychiatric/mental health services. Some examples of these deficiencies and notices include but are
17 not limited to the highest fine of a health care network in California's history – \$4,000,000 – for
18 failure to provide adequate mental health services; successive California Department of Managed
19 Health Care (DMHC) agency findings of deficient access to mental health care in 2013 (the year of
20 the fine), 2015 and again in 2017; a recent statewide walkout of KAISER PERMANENTE's own
21 mental health staff for failing to provide adequate resources for mental health care within its own
22 network, and numerous patient suicides attributed to lack of care and adequate resources.

23 84. Aware of all of these deficiencies, KAISER PERMANENTE knowingly expanded into
24 Santa Cruz County while knowingly and abjectly failing to have sufficient psychiatric and mental
25 health staff available to the new patients it had solicited from other local health care providers. On
26 information and belief, KAISER PERMANENTE simultaneously and intentionally denied its
27 patients, including Mr. SHUTS, their requested continuing mental health care from their former
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1 providers knowing full well that it lacked comparable mental health professionals within its Santa
2 Cruz network.

3 85. KAISER PERMANENTE did not, and has not as of the time of the filing of this
4 complaint, established a contractual relationship with any behavior health units in the County of
5 Santa Cruz.

6 86. On information and belief, as of any dates relevant to this litigation, KAISER
7 PERMANENTE has not established a protocol with any local law enforcement agencies concerning
8 taking patients into custody for involuntary psychiatric holds pursuant to Welfare and Institutions
9 Code Section 5150 et seq.

10 87. This willful and reckless behavior on the part of KAISER PERMANENTE is part of a
11 long history of systemic abuses, which includes as alleged above numerous documented violations
12 of legal and professional standards, failure to adequately treat patients with mental health issues,
13 delayed access to mental health services, denied access to mental health services, and psychiatric
14 patient dumping.

15 **Plaintiff's Injuries Are Traumatic, Lasting and Severe**

16 88. As a direct result of this incident, Mr. Shuts suffered physical injuries, including but not
17 limited to: head trauma (diagnosed concussion with persistent symptoms of headache, imbalance,
18 vertigo and confusion), nerve damage to both hands, facial and scalp contusions; severe shoulder and
19 elbow injuries (currently being assessed by an orthopedic surgeon) causing persistent pain and
20 inability to use his left arm; forearm, wrist and hand contusions, cuts and persistent numbness;
21 abrasions; emotional trauma, loss of consortium and shock with associated impact on his family. Mr.
22 Shuts' young granddaughter in his care was left at school with no one to pick her up.

23 89. As of the date of this Complaint, seven months have passed and Mr. Shuts' injuries
24 persist. Long-term impact from these injuries is likely and significant to Mr. Shuts' ability to
25 function on a daily basis. Mr. Shuts also suffered an exacerbation, and subsequent setback in his
26 recovery from his pre-existing conditions and considering those conditions was placed in jeopardy of
27 death.
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1 90. All this abuse was inflicted on a man who Defendant HENSEL knew had recently
2 suffered a stroke, multiple heart attacks and several other life threatening conditions. All these
3 conditions were well-documented in Mr. Shuts' medical records as reviewed by Dr. HENSEL prior
4 to the February 6, 2017 appointment.

5 91. On information and belief, the Defendant officers were informed of, or possessed a duty
6 to inquire into, Mr. Shuts' disability before physically engaging with him. The officers for certain
7 knew he was disabled after Mr. Shuts specifically apprised them of that fact. This information made
8 no impact on the officers' aggressive behavior.

9 92. Additionally, Plaintiff Shuts continues to suffer from the combined trauma of
10 abandonment, physical assault and the forced confinement, first in the KAISER PERMANENTE
11 facility, and next in the jail, with the specter of a criminal prosecution hanging over him when all he
12 did was go to his doctor seeking help in dealing with his complex medical needs, thereafter upon his
13 release and in his attempts to leave the KAISER PERMANENTE network.

14
15 **FIRST CAUSE OF ACTION**
16 **Unlawful Arrest, Fourth & Fourteenth Amendments, 42 U.S.C. § 1983**
17 **OFFICERS JOHNSON, LOPEZ, and DOE**

18 93. Plaintiff Shuts hereby re-alleges and incorporates by reference all preceding
19 paragraphs of this Complaint.

20 94. As set forth above, Plaintiff was subjected to deprivation of rights by Defendant
21 Officers JOHNSON, LOPEZ, and DOE, inclusive, acting under color of law of the United States and
22 State of California and of the City of SCOTTS VALLEY which rights include, but are not limited to,
23 privileges and immunities secured to Plaintiff by the Constitution and laws of the United States.

24 95. By reason of the aforementioned acts, these Defendants, and each of them,
25 independently and in concert, violated the constitutional rights and liberty interests of Plaintiff,
26 including those provided in the Fourth Amendment and Fourteenth Amendments to the U.S.
27 Constitution.

28 96. The above-described conduct by these Defendants and each of them violated the right of

1 Plaintiff to be safe from unreasonable arrest without probable cause. Defendants had no probable
2 cause and no reasonable, articulable suspicion to believe that Plaintiff was engaged in any criminal
3 activity.

4 97. Before detaining and arresting Plaintiff Shuts, these Defendants had no information that
5 he committed any crime, intended to commit a crime, threatened anyone or was in any way violent
6 or threatening violence. Mr. Shuts had every right to go about his business. He committed no crime.
7 He threatened no one. He was not suspected of carrying any weapon or implement that would serve
8 as a weapon.

9 98. Defendant officers JOHNSON, LOPEZ, and DOE conducted no independent
10 investigation into the call from KAISER PERMANENTE staff. They did not participate in the
11 constitutionally required duty to independently investigate the call but instead relied on mere broad
12 allegations relayed to them through dispatch. Moreover, no officers even asked Mr. Shuts to speak
13 to them to make some assessment of his mental state to determine if Mr. Shuts was alert and oriented
14 to time, place and person and in need of immediate involuntary psychiatric intervention.

15 99. The Defendant Officers instead lay in wait silently in the clinic hallway ready to
16 ambush Mr. Shuts as he predictably tried to leave for his upcoming therapist appointment with his
17 wife and granddaughter. The officers stood behind him when Mr. Shuts emerged from the exam
18 room door and stated out loud that he needed to leave for a 3:00 appointment. To any reasonable
19 officer, Mr. Shuts' clear statement of intent to make his therapy appointment would have dispelled,
20 or at least placed into question, initial assumptions of a suicidal intent, further underscoring the need
21 to investigate Mr. Shuts' mental state.

22 100. Defendant Officers JOHNSON, LOPEZ, and DOE failed to identify themselves or to
23 explain their presence before grabbing Plaintiff forcefully by the arm, slamming him face down onto
24 the ground, grinding his head onto the concrete exam room floor, placing their weight on his injured
25 back, wrenching his arms, and arresting Plaintiff for obstruction after Plaintiff predictably withdrew
26 his arm from the unlawful and forceful grasp.

27 101. Defendant Officers JOHNSON, LOPEZ, and DOE were called, not because Mr. Shuts
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1 was suspected of committing any crime, but for the sole purpose of protecting him from potentially
2 harming himself. Without making any independent assessment of Mr. Shuts' behavior, they tackled
3 him first and then accused him of resisting their unlawful act, which was unsupported by probable
4 cause.

5 102. No exigent circumstances existed to justify the officers' assaulting and arresting
6 Plaintiff Shuts without warning or investigation. Defendant Officers JOHNSON, LOPEZ, and DOE
7 had time to inquire about Mr. Shuts' condition and develop a non-confrontational method of
8 approach to introducing themselves to Mr. Shuts as they otherwise stood in the hallway poised to
9 attack when he emerged from the exam room.

10 103. The officer Defendants violated clearly established law governing 5150 holds. Any
11 reasonable officer would know that no legal justification for a 5150 mental health hold existed under
12 the circumstances. Had there been reason to believe the officers had probable cause for a 5150, any
13 reasonable officer would have given Plaintiff the state mandated verbal admonishment of a 5150
14 hold and completed the mandated 5150 paperwork.

15 104. The officer Defendants violated clearly established law by arresting Plaintiff for
16 obstruction under circumstances where there was no probable cause for a 5150 hold and Plaintiff had
17 every right to go about his business free of police interference.

18 105. Further evidence of the absence of a perceived legal basis for arresting Mr. Shuts is
19 demonstrated by the fact that Mr. Shuts was taken directly to the county jail. At no point did officers
20 attempt to take Mr. Shuts to a behavioral health unit. On being delivered to the jail, Mr. Shuts was
21 not held in a cell designed for mental health issues. Mr. Shuts was never told he was under arrest or
22 appraised of his Miranda rights. While in county jail Mr. Shuts consulted with medical services
23 twice due to pain and elbows locking up and was not perceived to need to be contacted by jail
24 mental health staff.

25 106. The Santa Cruz County District Attorney dismissed the charges against Mr. Shuts
26 before his first court date by letter based on the obvious fact that Mr. Shuts had committed no crime
27 and had not resisted a lawful police action.
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107. As a direct and proximate result of the afore-described unlawful and malicious conduct by Defendants committed under color of law and under each individual's authority, Plaintiff Shuts suffered economic loss, grievous bodily harm and emotional distress and was deprived of his right to be secure in his person against unreasonable seizure in violation of the Fourth and Fourteenth Amendments of the United States Constitution.

108. Each and every Defendant's afore-described acts were intentional, wanton, malicious and oppressive and made with reckless indifference to Plaintiff's rights thus entitling Plaintiff to an award of punitive damages.

SECOND CAUSE OF ACTION
Excessive Force, Fourth & Fourteenth Amendments, 42 U.S.C. § 1983
OFFICERS JOHNSON, LOPEZ, and DOE

109. Plaintiff Shuts hereby re-alleges and incorporates by reference all preceding paragraphs of this Complaint.

110. As set forth above, Plaintiff was subjected to deprivation of rights by Defendant Officers JOHNSON, LOPEZ, and DOE, inclusive, acting under color of law of the United States and State of California and of the City of SCOTTS VALLEY which rights include, but are not limited to, privileges and immunities secured to Plaintiff by the Constitution and laws of the United States.

111. By reason of the aforementioned acts, these Defendants, and each of them, violated the constitutional rights and liberty interests of Plaintiff, including those provided in the Fourth Amendment and Fourteenth Amendments to the U.S. Constitution to be free of excessive force.

112. Defendant Officers JOHNSON, LOPEZ, and DOE, acting in concert and without resistance by Mr. Shuts, forcibly grabbed the older, disabled KAISER patient, physically shoved him through the doorway back into the exam room, gang-tackled and body slammed him onto the concrete floor face down, and smashed his head onto the hard floor, causing him head trauma.

113. To punish Mr. Shuts for ignoring what he reasonably believed to be a security guard's command and withdrawing his arm from the lead officer's painful grip, one of the Defendant officers pressed Plaintiff's head harder onto the floor with both arms using the full heavy weight of his body, the second jammed his knees into Plaintiff's back with his full heavy weight while using it

1 as a point of leverage to yank and twist Plaintiff's arm, and the third still unidentified Defendant
2 DOE, with considerable strength, twisted and wrenched Mr. Shuts' other arm from under him to
3 behind his back, all as Mr. Shuts laid helpless under their weight.

4 114. The Defendant officers then placed handcuffs on Plaintiff so tightly he was in
5 excruciating pain and, further to punish Plaintiff, cuffed him in a purposely painful position, a
6 manner of cuffing not sanctioned by *any* law enforcement department, and left him in the too tight
7 handcuffs for an extended time as Mr. Shuts continually complained of the resultant pain.

8 115. Plaintiff Shuts' withdrawing his arm from Defendant Officer DOE's painful and
9 unlawful grasp, did not under any recognized law enforcement standard, warrant any escalation of
10 force in the magnitude manifested by the officers.

11 116. Plaintiff Shuts was at all times non-violent and posed no apparent threat to the safety
12 of any persons, let alone the Defendant officers. The police incident report is devoid of any claim of
13 aggression by Mr. Shuts, either initially or in response to the Defendant officers' unnecessary use of
14 violence.

15 117. Plaintiff Shuts at no time was actively resisting lawful arrest or detention or
16 attempting to evade arrest by flight. The fact that the whole encounter took place in a medical exam
17 room against a medical patient with no accusation or history of violence should have better informed
18 the officers' disproportionate and excessively violent actions.

19 118. Defendant Officers JOHNSON, LOPEZ, and DOE at all times knew that Mr. Shuts
20 had not committed any crime. At all times, these Defendants knew they were called to the scene
21 specifically to protect Mr. Shuts—not to harm him and that he had threatened no one. At no point
22 was Mr. Shuts physically aggressive towards anyone. No 5150 detention was ever actually initiated.
23 No other basis for detention other than 5150 is suggested in the police report prepared by the
24 officers. There was no need for physical violence.

25 119. Defendant Officers JOHNSON, LOPEZ, and DOE had ample time to identify
26 themselves to the disabled Mr. Shuts and to explain the reason for their presence. There was no
27 changing or exigent circumstance that forced Defendant Officers JOHNSON, LOPEZ, and DOE to
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1 conclude it was necessary to slam Plaintiff to the concrete floor, to restrict his movement, to batter
2 him to the point where he suffered head trauma and other injuries, or to put on handcuffs so tightly
3 and in an unsanctioned manner, and to leave them on for an extended time such that Plaintiff was in
4 excruciating pain.

5 120. Defendant Officers JOHNSON, LOPEZ, and DOE failed to identify themselves as
6 police officers and to provide Plaintiff with a warning that the use of force was imminent. The
7 officers thus intentionally and unnecessarily skipped several critical steps in the use-of-force
8 spectrum.

9 121. The force used by Defendant Officers JOHNSON, LOPEZ, and DOE as described
10 above constitutes excessive force and a physical assault. Handcuffing Plaintiff Shuts so tightly so as
11 to cause excruciating pain, and deliberately leaving him in the too tight handcuffs for an extended
12 time and in the torture position, constitutes excessive force.

13 122. By the actions described above, Defendant Officers JOHNSON, LOPEZ, and DOE
14 deprived Mr. Shuts of the following clearly established and well-settled constitutional rights:

- 15 a. Freedom from the use of excessive and unreasonable force;
- 16 b. Freedom from the deprivation of liberty without due process of law; and,
- 17 c. Freedom from summary punishment.

18 123. As a direct and proximate result of the afore-described unlawful and malicious
19 conduct by Defendant Officers JOHNSON, LOPEZ, and DOE, committed under color of law and
20 under their authority as SCOTTS VALLEY Police Officers, Plaintiff Shuts suffered economic loss,
21 medical bills, immediate legal bills and grievous bodily harm requiring two emergency room visits
22 and months of ongoing medical attention, prolonged physical pain and suffering, and emotional
23 distress. As a result, he was deprived of his right to be secure in his person against violations of his
24 rights under the Fourth and Fourteenth Amendments to the United States Constitution.

25 124. The acts of Defendant Officers JOHNSON, LOPEZ, and DOE were intentional,
26 wanton, malicious and oppressive and made with reckless indifference to Plaintiff's rights thus
27 entitling plaintiff to an award of punitive damages.

THIRD CAUSE OF ACTION
Americans with Disabilities Act, Title II
SCOTTS VALLEY

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3 125. Plaintiff Shuts hereby re-alleges and incorporates by reference all preceding
4 paragraphs of this Complaint.

5 126. Plaintiff Shuts is a qualified individual with a disability under the meaning of the
6 Americans with Disabilities Act.

7 127. By reason of his disability, Plaintiff was excluded from participation in or was denied
8 the benefits of the services, programs, or activities of a public entity, specifically the SCOTTS
9 VALLEY Police Department and all Defendant officers in the exercise of their activities as
10 community peace officers.

11 128. Title II of the Americans with Disabilities Act applies to every interaction between
12 government and persons with disabilities. It applies to police who are responding to a call for
13 assistance in taking someone to a psychiatric evaluation. It even applies when police are arresting a
14 suspect. People with disabilities face all the more injurious and harmful consequences when law
15 enforcement fail to take disabilities into account and reasonably to accommodate said known
16 disabilities.

17 129. If the Defendant SCOTTS VALLEY police officers knew one thing about Mr. Shuts,
18 it was that he was disabled and vulnerable and at the office of his treating physician. Based on the
19 call for a 5150, they were advised, at the very least, that he may have had mental health issues.
20 Under the circumstances, the SCOTTS VALLEY Police Department officers had a duty to inquire as
21 to whether Mr. Shuts suffered from any mental or physical disabilities of which the police should be
22 aware.

23 130. At a minimum, if the SCOTTS VALLEY police did not know of Mr. Shuts' actual
24 disabilities, it had a duty to inquire about them considering the location of police contact. The most
25 minimal inquiry would have identified Mr. Shuts to the SCOTTS VALLEY officers as a stroke and
26 multiple heart attack victim. Their failure to accommodate his known, or reasonably ascertainable,
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1 disabilities thereby compounded the harm, injuries and indignities that he suffered. These facts exist
2 in the context that no emergency or exigency was reported or existed.

3 131. The SCOTTS VALLEY police officers had time to inquire about Mr. Shuts'
4 condition and develop a non-confrontational approach to introducing themselves to Mr. Shuts as
5 they otherwise waited in the hallway outside of Mr. Shuts' exam room for him to emerge.

6 132. As a direct and proximate result of the afore-described unlawful conduct by SCOTTS
7 VALLEY through its agents and employees, Plaintiff Shuts suffered grievous bodily harm and
8 emotional distress and was deprived of his right to have a reasonable accommodation of his
9 disability as guaranteed under the Americans with Disabilities Act, Title II.

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11 **FOURTH CAUSE OF ACTION**
12 **UNRUH ACT, CALIFORNIA CIVIL CODE § 51 et seq.**
13 **SCOTTS VALLEY, JOHNSON, LOPEZ, DOE,**
14 **KAISER PERMANENTE, DR. HENSEL, DOES 1-20**

15 133. Plaintiff Shuts hereby re-alleges and incorporates by reference all preceding
16 paragraphs of this Complaint.

17 134. Plaintiff Shuts is an individual with a disability or medical condition under the
18 meaning of California Civil Code § 51.

19 135. By reason of his disability and medical condition, Plaintiff was excluded from
20 participation in or was denied the benefits of the services, programs, or activities of SCOTTS
21 VALLEY, and KAISER PERMANENTE, a business within the meaning of California Civil Code §

22 51.
23 136. California Civil Code § 51 applies to entities that interact with persons with physical
24 disabilities, medical conditions and mental health issues. Persons with disabilities face all the more
25 injurious and harmful consequences when providers fail to take disabilities into account and
26 reasonably to accommodate said known disabilities.

27 137. Having reviewed Mr. Shuts' medical history, Dr. HENSEL was expressly aware of
28 his disability due to stroke and other serious medical and mental health issues. Aware of Mr. Shuts'
disability, Dr. HENSEL failed to interact with Mr. Shuts in a manner to insure his safety and to

1 assure that all interactions with Mr. Shuts included appropriate accommodation of his physical and
2 mental vulnerabilities.

3 138. KAISER PERMANENTE, and its agents, including Dr. HENSEL, failed to
4 accommodate Mr. Shuts' disability and mental health issues by, first, taking a few minutes to ask
5 basic questions of his patient, listen to his answers, and sort out the medical reasons behind Mr.
6 Shuts' high AOQ score; and, second, to insure that KAISER PERMANENTE had an appropriate
7 option for providing psychiatric care for Mr. Shuts; and, third, in the unlikely event that a 5150 was
8 actually called for based on Mr. Shuts' affect, demeanor and explanation of his AOQ score, giving
9 Mr. Shuts an opportunity to orient himself to cooperating with his doctor's plan to have police
10 transport him to a psychiatric hospital.

11 139. KAISER PERMANENTE and its agents, including Dr. HENSEL, failed in their duty
12 to Mr. Shuts by not communicating Dr. HENSEL's plan to involuntarily commit Mr. Shuts to a
13 behavioral health unit, by failing to communicate with law enforcement to make them aware of Mr.
14 Shuts' medical and mental health vulnerabilities, and by failing to introduce Mr. Shuts to the law
15 enforcement officers so that he would know them as such and not perceive them as a threat.

16 140. California Civil Code § 51 applies to police who are responding to a call for
17 assistance in taking someone to a psychiatric evaluation. It even applies when police are arresting a
18 suspect. People with disabilities face all the more injurious and harmful consequences when law
19 enforcement fail to take disabilities into account and reasonably to accommodate said known
20 disabilities.

21 141. Based on the call for a 5150 from KAISER PERMANENTE staff, the SCOTTS
22 VALLEY police officers were advised, at the very least, that Mr. Shuts had mental health issues.
23 Under the circumstances, the SCOTTS VALLEY police officers had a duty to inquire if Mr. Shuts
24 also suffered from any physical disabilities or medical conditions of which the police should be
25 aware.

26 142. Considering the location of police contact, the most minimal inquiry would have
27 identified Mr. Shuts to the SCOTTS VALLEY officers as a stroke and multiple heart attack victim.
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1 Their failure to accommodate his known, or readily ascertainable, disabilities thereby compounded
2 the harm, injuries and indignities that Mr. Shuts suffered. These facts exist in the context that no
3 emergency or exigency was reported or existed.

4 143. The SCOTTS VALLEY Police Department officers had time to inquire about Mr.
5 Shuts' condition and develop a non-confrontational method of approach to introducing themselves to
6 Mr. Shuts as they stood poised to act in the hallway outside Mr. Shuts' exam room.

7 144. Defendant SCOTTS VALLEY, a public entity, is liable for injury proximately caused
8 by acts or omissions of its employees under Govt. Code § 815.2.

9 145. As a direct and proximate result of the afore-described unlawful conduct by KAISER
10 PERMANENTE AND SCOTTS VALLEY through its agents and employees, Plaintiff Shuts
11 suffered grievous bodily harm and emotional distress and was deprived of his right to have a
12 reasonable accommodation of his disability as guaranteed under California Civil Code § 51 et seq.

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14 **FIFTH CAUSE OF ACTION**
15 **California's Bane Act, Cal. Civ. Code § 52.1**
16 **SCOTTS VALLEY, OFFICERS JOHNSON, LOPEZ, DOE, DOES 1-20**

17 146. Plaintiff Shuts hereby re-alleges and incorporates by reference all preceding
18 paragraphs of this Complaint.

19 147. California's Bane Act provides protection from threats, intimidation, coercion and
20 attempts to interfere with people's state or federal statutory or constitutional rights.

21 148. Where Fourth Amendment unreasonable seizure or excessive force claims are raised
22 and intentional conduct is at issue, there is no need for a Plaintiff Shuts to allege a showing of
23 coercion independent from that inherent in the seizure or use of force.

24 149. As set forth above, these Defendants interfered with Plaintiff Shuts' state and federal
25 statutory and constitutional rights by subjecting him to unlawful arrest and excessive force
26 constituting intimidation, threats and coercion

27 150. As a direct and proximate result of Defendants' violation of Civil Code Section 52.1,
28 plaintiff suffered violation of his constitutional rights, and suffered damages as set forth herein.

1 151. Defendant SCOTTS VALLEY, a public entity, is liable for injury proximately caused
2 by acts or omissions of its employees under Govt. Code § 815.2.

3 152. Plaintiff Shuts is entitled to triple damages, punitive damages, injunctive relief and an
4 award of his reasonable attorney's fees pursuant to Civil Code § 52.1 and as herein set forth.

5 **SIXTH CAUSE OF ACTION**
6 **Assault and Battery**
7 **OFFICERS JOHNSON, LOPEZ, DOE, SCOTTS VALLEY, DOES 1-20**

8 153. Plaintiff Shuts hereby re-alleges and incorporates by reference all preceding
9 paragraphs of this Complaint.

10 154. The acts of Defendant Officers JOHNSON, LOPEZ, and DOE individually and in
11 concert did touch Plaintiff Shuts without legal authority in a harmful and unwanted manner as
12 described in Penal Code § 245(a)(1). Defendant Officers JOHNSON, LOPEZ, and DOE, acting in
13 concert and without any counteraction from Mr. Shuts, forcibly grabbed Mr. Shuts, shoved him,
14 gang-tackled and body slammed him onto the concrete exam room floor face down and smashed his
15 head into the hard floor, causing him head trauma.

16 155. To punish Mr. Shuts for pulling his hand back from the lead officer, one of these
17 Defendants pressed Plaintiff's head harder onto the floor with both arms using the full heavy weight
18 of his body, the second jammed his knees into Plaintiff's back with his full heavy weight while using
19 it as a point of leverage to yank and twist Plaintiff's arm, and the third still unidentified Officer
20 DOE, using all his considerable strength, twisted and wrenched Mr. Shuts' other arm from under
21 him to behind his back, whereupon these Defendants placed handcuffs on Plaintiff so tightly he was
22 in excruciating pain and, further to punish Plaintiff, left him in the too tight handcuffs for an
23 extended time.

24 156. Defendant Officers JOHNSON, LOPEZ, and DOE acted without substantial legal
25 justification.

26 157. As a direct and proximate result of the aforementioned battery, Mr. Shuts suffered
27 physical and psychological damage to his person and in relation to his family.

28 158. The acts of Defendant Officers JOHNSON, LOPEZ, and DOE were intentional,

1 wanton, malicious and oppressive and made with reckless indifference to Plaintiff's rights thus
2 entitling Plaintiff to an award of punitive damages.

3
4 **SEVENTH CAUSE OF ACTION**
5 **False Imprisonment**
6 **OFFICERS JOHNSON, LOPEZ, DOE, SCOTTS VALLEY,**
7 **DR. HENSEL, KAISER PERMANENTE, DOES 1-20**

8
9
10 159. Plaintiff Shuts hereby re-alleges and incorporates by reference all preceding
11 paragraphs of this Complaint.

12 160. California's tort of false imprisonment is defined as "the unlawful violation of the
13 personal liberty of another." Cal. Pen. Code § 236.

14 161. As set forth above, on February 6, 2017, KAISER PERMANENTE, the KAISER
15 PERMANENTE DOE Defendants and Dr. HENSEL unlawfully imprisoned Plaintiff in the exam
16 room followed by the SCOTTS VALLEY Defendants detaining and arresting Plaintiff in that they
17 acted outside the scope of their duties at the time of the arrests, that the arrests were unlawful, and
18 that the officers did not have a reasonable belief that the arrests were lawful at the time they made
19 the arrests.

20 162. Defendant KAISER PERMANENTE did direct its agent nurse to, or as a function of
21 its policies its agent nurse did, physically block Mr. Shuts from leaving his exam room by standing
22 in the doorway, holding onto the door handle, and telling Mr. Shuts that he could not leave.
23 KAISER PERMANENTE and its agents did so without sufficient legal justification.

24 163. Defendant DR. HENSEL did expressly direct KAISER PERMANENTE agent nurse
25 to engage in the acts stated in the previous paragraph.

26 164. Each and every Defendant officer collectively and acting in concert did falsely
27 imprison Mr. Shuts by confining him to his exam room through use of force and by arresting,
28 detaining and incarcerating Mr. Shuts without sufficient legal justification.

165. Defendant SCOTTS VALLEY, a public entity, is liable for injury proximately caused
by acts or omissions of its employees under Govt. Code § 815.2.

1 166. As a direct and proximate result of the afore described unlawful and malicious
2 conduct by these Defendants, Plaintiff Shuts suffered economic loss, grievous bodily harm and
3 emotional distress and was deprived of his right to be secure in his person against unlawful treatment
4 by the police.

5 167. Each and every herein named Defendant's afore-described acts were intentional,
6 wanton, malicious and oppressive and made with reckless indifference to Plaintiff Shuts' rights thus
7 entitling Plaintiff to an award of punitive damages.

8 **EIGHTH CAUSE OF ACTION**
9 **Medical Malpractice**
10 **DR. HENSEL, KAISER PERMANENTE, DOES 1-20**

11 168. Plaintiff Shuts hereby re-alleges and incorporates by reference all preceding
12 paragraphs of this Complaint.

13 169. Dr. HENSEL was medically negligent towards Plaintiff Shuts on February 6, 2017,
14 and thereafter for failing to exercise reasonable care in the circumstances presented in this
15 complaint. Dr. HENSEL's negligent behavior included inter alia: violating standards of care in
16 assessing Plaintiff Shuts as presently suicidal, misdiagnosing Mr. Shuts as requiring an involuntary
17 psychological hold, failing in his duty to expressly warn Mr. Shuts that he had called the police to
18 take him to a behavioral health unit, and failing to assure that staff adequately communicated with
19 Scott's Valley Police to facilitate a peaceful interaction between the police and Mr. Shuts.

20 170. Plaintiff Shuts was harmed by the medical negligence of Defendant HENSEL in the
21 manner previously articulated in this complaint.

22 171. Defendant Dr. HENSEL's negligence was a substantial factor in causing Plaintiff
23 Shuts' harm.

24 172. Defendant KAISER PERMANENTE was negligent towards Plaintiff Shuts on
25 February 6, 2017, and thereafter for failing to exercise reasonable care in the circumstances
26 articulated in this complaint.

27 173. Defendant KAISER PERMANENTE's negligence included failing in its duty to
28 expressly warn Mr. Shuts that a member of its staff had called the police to take him to a behavioral

1 health unit for involuntary psychiatric institutionalization; failing to assure that staff adequately
 2 communicated with Scott's Valley Police to facilitate a peaceful interaction between the police and
 3 Plaintiff Shuts; failing to assure that its facility was a safe place for Mr. Shuts to be taken into police
 4 custody; failing to staff adequate mental health professionals within its network so that Dr. HENSEL
 5 believed he had no choice but to involuntarily intern Mr. Shuts; failing to grant Plaintiff Shuts'
 6 request for continuing care in his prior network; and failing to adequately inform staff of behavior
 7 health resources in the area of Plaintiff Shuts' detainment.

8
 9 174. KAISER PERMANENTE's failure in its duties of care included but were not limited
 10 to its failure to provide requested psychiatric services beginning January 2017, failure to permit
 11 continuing care of the prior health network in the transition to KAISER PERMANENTE knowing it
 12 lacked adequate psychiatric services, failure to schedule necessary appointment and failure to permit
 13 Ms. Shuts' request to leave the network.

14 175. Dr. HENSEL's failure in his duties of care included but were not limited to his failure
 15 to adequately assess Mr. Shuts' psychiatric needs, failure to adhere to mandated protocol for
 16 involuntary psychiatric holds, failure to offer a voluntary psychiatric hold, and failure to follow up
 17 on his patient after his purported psychiatric hold to determine his safety and further needs.

18 176. Plaintiff Shuts was harmed by the medical negligence of Defendant KAISER
 19 PERMANENTE and Dr. HENSEL in the manner previously articulated in this complaint.

20 177. Defendant KAISER PERMANENTE's and Dr. HENSEL's negligence was a
 21 substantial factor in causing Plaintiff Shuts harm.

22 **NINTH CAUSE OF ACTION**

Patient Abandonment

DR. HENSEL, KAISER PERMANENTE, DOES 1-20

23 178. Plaintiff Shuts hereby re-alleges and incorporates by reference all preceding
 24 paragraphs of this Complaint.

25 179. Defendant Dr. HENSEL withdrew from Plaintiff Shuts' care and treatment when Dr.
 26 HENSEL left the exam room on February 6, 2017, prior to ordering an involuntary medical response
 27 from police, thereafter never again speaking to, or offering care to, Mr. Shuts. During the time of
 28

1 Dr. HENSEL'S initial abandonment, Dr. HENSEL purportedly believed Mr. Shuts was suffering
2 from a mental health crisis for which he both covertly ordered an involuntary psychiatric hold and
3 specifically noted the need for medical follow up.

4 180. Defendant Dr. HENSEL failed to provide sufficient notice for Mr. Shuts to obtain
5 another medical practitioner prior to his ordering involuntary institutionalization for psychological
6 evaluation.

7 181. As a result of Defendant Dr. HENSEL's abandonment, Plaintiff Shuts suffered harm
8 including but not limited to economic loss, grievous bodily harm and emotional distress.

9 182. Defendant HENSEL'S abandonment was a substantial factor in causing Plaintiff
10 Shuts harm.

11 **TENTH CAUSE OF ACTION**

12 **Negligence**

13 **SCOTTS VALLEY, OFFICERS JOHNSON, LOPEZ, DOE, DOES 1-20**

14 183. Plaintiff Shuts hereby re-alleges and incorporates by reference all preceding
15 paragraphs of this Complaint.

16 184. Each and every herein-named Defendant was professionally negligent in their
17 respective roles and duties with regard to Mr. Shuts. The above named Defendants, and each of
18 them, failed to act with the ordinary duties of a police officer responding to a nonviolent individual
19 with severe medical issues that was alleged to be experiencing a psychological crisis.

20 185. Plaintiff Shuts was indeed harmed by the professional negligence committed by the
21 above named officers and entities.

22 186. The negligence of each and every Defendant was a substantial factor in causing Mr.
23 Shuts harm.

24 187. Defendant SCOTTS VALLEY, a public entity, is liable for injury proximately caused
25 by acts or omissions of its employees under Govt. Code 815.2.

26 188. As a direct and proximate result of the afore-described negligent conduct by these
27 Defendants, Plaintiff Shuts suffered great harm including but not limited to economic loss, grievous
28

1 bodily harm and emotional distress and was deprived of his right to be secure in his person against
2 unlawful treatment by the police.

3
4 **ELEVENTH CAUSE OF ACTION**
5 **Intentional Infliction of Emotional Distress**
6 **SCOTTS VALLEY, OFFICERS JOHNSON, LOPEZ, DOE,**
7 **KAISER PERMANENTE, DR. HENSEL, DOES 1-20**

8 189. Plaintiff Shuts hereby re-alleges and incorporates by reference all preceding
9 paragraphs of this Complaint.

10 190. As set forth above, Plaintiff Shuts has alleged: (1) outrageous conduct by the
11 Defendants (2) who intended to cause or recklessly disregarded the probability of causing emotional
12 distress, (3) and the Defendants' actions were the actual and proximate cause (4) of Plaintiff Shuts'
13 severe emotional suffering.

14 191. Defendants Officers JOHNSON, LOPEZ and DOE assaulted, gang-tackled and
15 arrested Plaintiff Shuts for peaceably attempting to leave his doctors' appointment for his
16 appointment with his therapist. These Defendants' conduct was so extreme as to exceed all bounds
17 of that usually tolerated in a civilized society. It amounted to a specific intent to cause him, or a
18 reckless disregard for causing him, severe emotional distress.

19 192. Plaintiff Shuts suffered severe emotional distress as a result of the individual
20 Defendants' conduct.

21 193. Plaintiff Shuts alleges the actions of every individual Defendant was attributable to
22 bad faith, malicious hostility towards Plaintiff, and a willful and or deliberate disregard for
23 Plaintiff's rights. As a direct and proximate result of the afore-described intentional conduct by these
24 Defendants, Plaintiff suffered economic loss, grievous bodily harm and emotional distress and was
25 deprived of his right to be secure in his person against unlawful and arbitrary interference by his
26 medical providers and the police.

27 194. Defendant SCOTTS VALLEY, a public entity, is liable for injury proximately caused
28 by acts or omissions of its employees under Govt. Code § 815.2.

1 195. Defendants KAISER PERMANENTE and Dr. HENSEL's reckless behavior in
2 failing to inform Mr. Shuts that he would be involuntarily taken into custody for a psychological
3 evaluation, failure to coordinate and introduce Mr. Shuts to the Defendant SCOTTS VALLEY
4 police department and the individuals and their failure to provide a safe environment for Mr. Shuts
5 was outrageous.

6 196. Defendants KAISER PERMANENTE and Dr. HENSEL's reckless behavior was
7 carried out with disregard of the probability of causing emotional distress.

8 197. Defendants KAISER PERMANENTE and Dr. HENSEL's reckless behavior was a
9 direct and proximate cause of Mr. Shuts' injuries.

10 198. Plaintiff Shuts suffered severe emotional distress as a result of Defendant KAISER
11 PERMANENTE and DOES 1-20's conduct.

12 199. Plaintiff Shuts alleges the actions of Defendant KAISER PERMANENTE and DOES
13 1-20's conduct was attributable to bad faith, malicious hostility towards Plaintiff, and a willful and
14 or deliberate disregard for Plaintiff's rights. As a direct and proximate result of the afore-described
15 intentional conduct by these Defendants, Plaintiff suffered economic loss, grievous bodily harm and
16 emotional distress and was deprived of his right to be secure in his person against unlawful and
17 arbitrary interference by his medical providers and the police.

18 200. Each and every herein-named Defendant's afore-described acts were intentional,
19 wanton, malicious and oppressive and made with reckless indifference to Mr. Shuts' rights thus
20 entitling Plaintiff Shuts to an award of punitive damages.

21
22 **TWELTH CAUSE OF ACTION**
23 **Conspiracy**
24 **ALL INDIVIDUAL DEFENDANTS AND SCOTTS VALLEY**

25 201. Plaintiff Shuts hereby re-alleges and incorporates by reference all preceding
26 paragraphs of this Complaint.

27 202. As set forth above, each of the above-cited Defendants who initiated, participated in
28 Plaintiff's February 6, 2017, call to the police and subsequent beating and arrest was aware that at
least one of their fellow Defendants intended to engage in the false detention, imprisonment and/or

1 deprivation of liberty of Shuts while knowing Plaintiff Shuts did not meet, or intentionally failing to
2 confirm that Plaintiff Shuts met, the requirements of Welfare and Institutions Code § 5150.

3 203. Each of the above-cited Defendants agreed with their fellow Defendant(s) and also
4 intended that Plaintiff Shuts be detained, imprisoned and/or deprived of liberty while knowing
5 Plaintiff Shuts did not meet, or intentionally failing to confirm that Plaintiff Shuts met, the
6 requirements of Welfare and Institutions Code § 5150.

7 204. None of the conspirators withdrew from the conspiracy prior to the harm to Mr.
8 Shuts.

9 205. Defendant SCOTTS VALLEY, a public entity, is liable for injury proximately caused
10 by acts or omissions of its employees under Govt. Code § 815.2.

11 206. Every Defendant's engagement in the conspiracy was a substantial factor in causing
12 Mr. Shuts harm.

13 207. As a result, Mr. Shuts did in fact suffer the harms previously mentioned in this
14 complaint namely severe physical, mental, financial, and emotional damage.

15 208. Plaintiff Shuts alleges the individual Defendants' actions were attributable to bad
16 faith, malicious hostility towards Plaintiff, and a willful and or deliberate disregard for Plaintiff's
17 rights. As a direct and proximate result of the afore-described intentional conduct by these
18 Defendants, Plaintiff suffered economic loss, grievous bodily harm and emotional distress and was
19 deprived of his right to be secure in his person against unlawful and arbitrary interference by his
20 medical providers and the police.

21 209. Each and every herein named Defendant's afore-described acts were intentional,
22 wanton, malicious and oppressive and made with reckless indifference to Plaintiff Shuts' rights thus
23 entitling Plaintiff to an award of punitive damages.

24
25 **JURY DEMAND**

26 210. Plaintiffs hereby demand a jury trial in this action.
27
28

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Shuts prays for relief, as follows:

1. For actual and compensatory damages from Defendants, jointly and severally as appropriate, according to proof;
2. For exemplary and punitive damages against the nongovernment Defendants according to proof;
3. For statutory penalties pursuant to California law;
4. For leave to amend or supplement the Complaint as the identity of the Doe Defendants is discovered and as new evidence is uncovered;
5. For declaratory relief;
6. For violation of California Civil Code §§ 51 and 52.1 et seq. statutory damages, injunctive relief and reasonable attorney’s fees;
7. For reasonable attorney’s fees as against the governmental Defendants pursuant to 42 U.S.C. § 1988 and/or the Americans with Disabilities Act;
8. For cost of suit herein incurred; and
9. For such other and further relief as the Court deems just and proper.

Dated: September 11, 2017,

/s/ Diane K. Vaillancourt
Diane K. Vaillancourt
LAW OFFICE OF DIANE K. VAILLANCOURT

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