



1 **COMP**

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17 CASE NO: A-21-845798-C
18 Department 19

19 **DISTRICT COURT**
20 **CLARK COUNTY, NEVADA**

21 ASHLEY O'NEIL, an individual;

22 **CASE NO.:** _____

23 Plaintiffs,
24 vs.

25 **DEPT NO.:** _____

26 LAS VEGAS METROPOLITAN POLICE
27 DEPARTMENT, a Political Subdivision of the
28 State of Nevada; COUNTY OF CLARK,
CLARK COUNTY DETENTION CENTER, a
Political subdivision of the State of Nevada;
SHERIFF JOE LOMBARDO, individually and
in his capacity as sheriff of the Las Vegas
Metropolitan Police Department; WELLPATH,
LLC, a foreign corporation, DOE NURSE
COCO, individually; DOE OFFICERS 1 through
10, individually, DOE NURSES 1 through 10,
individually; DOES 1 through 10; ROE
CORPORATIONS 11 through 20; and ABC
LIMITED LIABILITY COMPANIES 21
through 30, inclusive,

29 **COMPLAINT**

30 Defendants.

31 COMES NOW Plaintiff, ASHLEY O'NEIL, by and through her counsel of record,
32 Christian M. Morris, Esq., Alexandra B. McLeod, Esq., and Andréa L. Vieira, Esq., of the law

1 firm **NETTLES | MORRIS**, and for her causes of action against Defendants above named, and each
2 of them, hereby complains and alleges as follows:

3 **STATEMENT OF JURISDICTION AND VENUE**

4 1. The Eighth Judicial District Court has jurisdiction over this civil action pursuant
5 to Art. VI Sec. 6 of the Nevada Constitution, NRCP 8(a)(4), NRS 14.065, NRS 13.030, and NRS
6 41.130 as the occurrences giving rise to this case took place in Clark County, Nevada and the
7 amount in controversy exceeds \$15,000.00.

8 **PARTIES**

9 2. Plaintiff Ashley O'Neil ("Plaintiff") is, and at all relevant times was, an individual
10 residing in Clark County, Nevada.

11 3. Defendant LAS VEGAS METROPOLITAN POLICE DEPARTMENT
12 ("METRO") is a political subdivision of the State of Nevada, and owns, operates, manages,
13 directs, and controls the METRO police, and employed Defendant DOE OFFICERS at Clark
14 County Detention Center. METRO is considered a person pursuant to *Monell v. Dept. Social*
15 *Services*, 436 U.S. 658, 691 (1978); *see also* NRS 41.0334(2)(b) for the allegations outlined
16 below. METRO is responsible for the hiring, control, and supervision of all of its detention and
17 police officers and agents, as well as the implementation and maintenance of official and unofficial
18 policies pertaining to the day to day functioning of the Clark County Detention Center.

19 4. Defendant COUNTY OF CLARK, CLARK COUNTY DETENTION CENTER
20 ("CCDC") is a political subdivision of the State of Nevada, and owns, operates, manage, directs,
21 and controls the Clark County Detention Officers, and employed Defendant DOE OFFICERS.
22 CCDC is considered a person pursuant to *Monell v. Dept. Social Services*, 436 U.S. 658, 691
23 (1978); *see also* NRS 41.0334(2)(b) for the allegations outlined below.

24 5. Defendant Sheriff JOE LOMBARDO ("LOMBARDO") is and was at all times
25 described in this Complaint, Sheriff of the Las Vegas Metropolitan Police Department. Sheriff
26 JOE LOMBARDO was the commanding officer of Defendant DOE OFFICERS in this matter and
27 was responsible for the training, supervision, and conduct of Defendant DOE OFFICERS. As
28 sheriff, Defendant JOE LOMBARDO was a policy-making official for METRO with the power

1 to make official and final policies for METRO. He is sued individually and in his official capacity.

2 6. Defendant WELLPATH, LLC (“WELLPATH”), is a Delaware corporation
3 qualified to do business in the State of Nevada, and at all relevant times hereto, was doing business
4 in the County of Clark, State of Nevada. It is further alleged, upon information and belief, that at
5 all times relevant hereto a contractual relationship existed between WELLPATH and METRO
6 and/or CCDC for WELLPATH to provide medical services to detainees at the Clark County
7 Detention Center.

8 7. Defendant DOE NURSE “COCO”, individually, is believed to be an employee of
9 CCDC and/or WELLPATH who was involved in the care of Ashley O’Neil, who knowingly failed
10 to provide medical care to Ashley at CCDC. Plaintiff will ask leave of this Court to insert the true
11 names and capacities of Defendant Doe Nurse Coco when the full name has been ascertained and
12 will further ask leave to join said Defendant in these proceedings.

13 8. Defendant DOE OFFICERS are unknown officers of METRO and/or CCDC, who
14 were involved in the events that form the subject matter of this Complaint. DOE OFFICERS
15 assisted in, participated in, facilitated, permitted, or allowed the violation of Ashley O’Neil’s civil
16 rights. As described more fully below, DOE OFFICERS were officers of CCDC who knew of
17 Ashley O’Neil’s physical complaints and symptoms indicating the need for medical care, her
18 requests for medical care and/or necessary medications, and/or that Ashley O’Neil faced a
19 substantial risk of harm if she did not receive medical care yet failed to provide Ashley O’Neil
20 with the medical care she needed. Plaintiff will ask leave of the Court to insert the true names and
21 capacities of Defendant Doe Officers and will further ask leave to amend the complaint to join
22 Doe Officers in these proceedings.

23 9. Defendant DOE NURSES, individually, are believed to be employees of CCDC
24 and/or WELLPATH, who knowingly failed to provide medical care to Ashley O’Neil, at CCDC.
25 Plaintiff will ask leave of this Court to insert the true names and capacities of Defendant Doe
26 Nurses when the names have been ascertained and will further ask leave to join said Defendants
27 in these proceedings.

28 10. The true names and capacities, whether individual, corporate, associate, or

1 otherwise, of Defendants herein designated as DOE OFFICERS 1-10, DOE NURSES 1-10, and
2 DOES 1-10, inclusive, names are presently unknown to Plaintiff who, therefore, sue Defendants
3 by such fictitious names; when their true names and capacities are ascertained, Plaintiff will amend
4 the Complaint accordingly to insert the same herein.

5 11. The true names and capacities, whether individual, corporate, associate,
6 governmental or otherwise, of defendants DOES 1 through 10, ROE CORPORATIONS 11
7 through 20, and ABC LIMITED LIABILITY COMPANIES 21 through 30 (collectively referred
8 to as "Does/Roe/ABC Defendants"), inclusive, are unknown to Plaintiff at this time, who therefore
9 sues said defendants by such fictitious names. When the true names and capacities of said
10 defendants have been ascertained, Plaintiff will amend this Complaint accordingly.

11 12. Upon information and belief, Does/Roe/ABC Defendants participated in the
12 provision of health care and related services, ownership, maintenance, inspection, improvement,
13 alteration, management, control, entrustment, supervision, execution, and operation of the CCDC
14 and/or inmates housed at CCDC, Does/Roe/ABC Defendants include, but are not limited to,
15 owners, operators, drivers, passengers, family members, principals, employers, officers, staff,
16 personnel, contractors, supervisors, insurers, governmental authorities, and their agents, servants,
17 representatives, employees, partners, joint venturers, related companies, subsidiaries, parents,
18 affiliates, predecessors, and/or successors in interest.

19 13. Upon information and belief, Does/Roe/ABC Defendants are responsible,
20 negligently or in some other actionable manner, for the events and happenings hereinafter referred
21 to, and caused injuries and damages proximately thereby to Plaintiff as hereinafter alleged.

22 14. Upon information and belief, Does/Roe/ABC Defendants were involved in the
23 initiation, approval, support, or execution of the wrongful acts upon which this litigation is
24 premised, or of similar actions against Plaintiff of which the Plaintiff are presently unaware.

25 15. Upon information and belief, at all times herein mentioned, certain of the
26 Defendants acted as the agent, servant, representative, employee, partner, and/or joint venturer of
27 certain other Defendants, and at all said times were acting in the full course and scope of said
28 agency, service, representation, employment, partnership, and/or joint venture.

GENERAL ALLEGATIONS

16. On or about August 4, 2020, Defendant WELLPATH and Clark County entered
1 into an Amendment to the agreement under RFP Number 604962-18 entitled “Inmate Health Care
2 Services” dated May 7, 2019, in which WELLPATH was contracted to provide health care services
3 to inmates housed at CCDC.

17. On December 22, 2019, Ashley O’Neil was driving her vehicle and was involved
2 in a motor vehicle collision, causing severe injuries.

18. On December 22, 2019, Ashley O’Neil taken by ambulance to University Medical
2 Center Trauma (“UMC”) for the injuries sustained in the motor vehicle collision.

19. Upon information and belief, Ashley O’Neil was placed under arrest at the scene
2 of the motor vehicle collision.

20. On or about the same date, while at UMC, Ashley O’Neil was diagnosed with,
1 among other things, a splenic laceration, liver laceration, acute respiratory failure, knee laceration,
2 eyebrow laceration, laceration of right great toe without foreign body present or damage to nail,
3 closed fracture of distal end of right tibia, closed fracture of distal end of right fibula, and displaced
4 fracture of proximal phalanx of right great toe.

21. On or about the same date, Ashley O’Neil received external fixation of her right
1 pilon fracture with orthopedic surgery and transferred and admitted to the Trauma ICU.

22. Per instructions from orthopedic surgery, Ashley was cleared for discharge on
1 December 24, 2019, with a non-weight bearing status of her right leg.

23. On or about the same date, Ashley O’Neil was cleared for discharge by UMC to
1 METRO and/or CCDC custody by the Trauma surgery team with specification that she be placed
2 in the Infirmary. METRO and/or CCDC were also instructed that Ashely O’Neil would need
3 surgery by orthopedics in 1-2 weeks for permanent surgical fixation.

24. On or about December 24, 2019, UMC noted that CCDC was “refusing to take the
1 patient today.”

25. On or about January 3, 2019, Ashely O’Neil underwent an open reduction and
1 internal fixation of right tibia and fibular panel a, removal of ankle fixator with Dr. Monroe at

1 UMC.

2 26. On or about January 5, 2019, Ashely O'Neil was discharged back to CCDC.

3 27. Upon discharge, instructions were given to METRO and/or CCDC that Ashley
4 O'Neil needed to follow-up with Dr. Sylvain in 1–2 weeks following discharge, and a phone
5 number was provided to call to schedule the appointment.

6 28. At all relevant times, while at UMC, a METRO officer was outside the door to
7 Ashley O'Neil's room and Ashley O'Neil was within the custody and control of METRO and/or
8 CCDC.

9 29. On January 13, 2020, Ashley O'Neil was seen by medical staff at CCDC, who
10 removed the staples in her knee and stitches in her upper eyelid.

11 30. Ashley O'Neil was prescribed Tylenol 3's which she was given for seven days
12 before the medical staff at CCDC stopped it, despite Ashley still being in pain.

13 31. A few days before Ashley O'Neil was to be seen for her two-week follow-up, she
14 asked Nurse "Coco" if her two-week follow-up had been scheduled, to which Nurse "Coco"
15 responded, "we'll schedule it on our own time."

16 32. By February 3, 2020, a month after surgery, no appointments had been scheduled
17 for Ashley, Ashley had still not been seen by doctors at UMC for her two-week post-surgery
18 follow-up appointment, and no care had been provided for Ashley.

19 33. On February 10, 2020, Ashley O'Neil informed custodial persons at CCDC,
20 including but not limited to WELLPATH employees, METRO (hereinafter collectively
21 "Defendants"), DOE OFFICERS, DOE NURSES and/or DOE NURSE COCO (hereinafter
22 collectively with WELLPATH employees, "Defendant Employees") that the staples under her
23 cast were irritating her leg.

24 34. Ashley was seen by DOE NURSE COCO on February 12, 2020.

25 35. On February 12, 2020, Defendant Employees removed Ashley O'Neil's cast and
26 her leg was severely swollen with two big abscesses coming up through her stitches.

27 36. On the same day, Defendant Employees attempted to take out the stitches which
28 were now embedded in Ashley's leg. Defendant Employees dug the stiches out from under the

1 abscesses with an unknown instrument and without any anesthesia, which caused fluid to leak out
2 of Ashley's leg.

3 37. Following the actions by Defendant Employees in stich removal, Ashley O'Neil
4 was taken to UMC for medical evaluation and tested positive for sepsis.

5 38. While at UMC, it was noted that Ashley O'Neil had purulent yellow material
6 draining around the area of wound dehiscence on her anterior shin, but no staples.

7 39. On or about February 13, 2020, Ashley O'Neil had another surgery to remove the
8 abscesses from her leg and clean the hardware inside her leg.

9 40. On or about February 14, 2020, Ashley O'Neil consulted with Dr. Ongtengco at
10 University Medical Center for right leg surgical wound infection due to Enterobacter cloacae with
11 likely infected hardware, after presenting with surgical site dehiscence on the right leg, infection
12 and purulent discharge due to Enterobacter cloacae.

13 41. On or about February 15, 2019 Ashley O'Neil underwent incision and drainage of
14 the right ankle by Dr. Sylvain.

15 42. On or about February 19, 2019, Ashley O'Neil was discharged back to Defendants'
16 custody with instructions for a follow-up in 1–2 weeks with Dr. Sylvain.

17 43. Ashley O'Neil was prescribed antibiotics by UMC that she was required to take
18 every day for 40 days.

19 44. When Ashley O'Neil returned to CCDC, Defendant Employees did not see Ashley
20 O'Neil for a week, and did not provide her the prescription antibiotics prescribed at UMC and
21 ordered for Ashley to take for 40 days.

22 45. Ashley O'Neil was never given her required physical therapy exercises and had to
23 use items inside her cell to perform physical therapy exercises to prevent her leg from atrophying
24 or getting infected again.

25 46. On or about March 15, 2021 Ashley O'Neil underwent a right ankle removal of
26 hardware and right ankle fusion by Michael T Monroe, MD, Jose Zeron CST, Kelvin Kim MD,
27 Chris Harasyn DO. It was noted that Ashley O'Neil had "a significant deformity."

28 47. On or about March 15, 2021, a bone graft was placed in any defect or recess around

1 the ankle joint in order to stimulate new bone healing.

2 48. Ashley O'Neil was discharged to METRO and/or CCDC on the same date
3 following the March 15, 2021, ankle fusion. Ashley O'Neil was scheduled again for a two-week
4 follow-up appointment, but neither METRO, CCDC, DOE OFFICERS and/or DOE NURSES
5 ensured that Ashley O'Neil made it to the follow-up appointment.

6 49. Ashley O'Neil finally saw a doctor on April 13, 2021, nearly a month after her
7 ankle surgery.

8 50. Throughout the entire course of Ashley O'Neil's medical injuries and recovery,
9 Defendants and their officers/agents/contractors/employees did not ensure that Ashley O'Neil
10 received the required care and treatment that was ordered by her doctors.

11 51. Defendants, and each of them, knew that there was a substantial risk of harm to
12 Ashley O'Neil if she did not receive the required medical care and treatment that was ordered by
13 her doctors.

14 52. It was reasonably foreseeable to Defendants, and each of them, that Ashley
15 O'Neil would suffer an adverse reaction and/or serious injury if she was not given the required
16 medical care and treatment that was ordered by her doctors.

17 53. Defendants, and each of them, failed to render aid to Ashley O'Neil on repeated
18 occasions.

19 54. Due to Defendants, and each of them, failing to render aid, proper medical care,
20 and treatment to Ashley O'Neil, she suffered a severe infection with abscesses that required her
21 additional medical treatment including, but not limited to, surgery as well as resultant permanent
22 damage to her leg, ankle, and foot.

23 55. Defendants, and each of them, were deliberately indifferent to Ashley O'Neil by
24 ignoring the instructions provided by Ashley O'Neil's treating providers including, but not limited
25 to, the doctors and nurses at UMC, as to the serious medical needs of Ashley O'Neil and required
26 care and treatment ordered by her doctors, of which Defendants, and each of them, were informed
27 and/or otherwise had or should have had knowledge, resulting serious injury and harm to Ashley
28 O'Neil.

1 56. Defendants, and each of them, engaged in conduct that was objectively
2 unreasonable.

3 57. The handling of issues pertaining to Ashley O'Neil's required medical care by
4 Defendants, and each of them, was scandalously and deliberately indifferent, causing serious
5 injuries and death to countless inmates around the County, such as Plaintiff.

6 58. Numerous incarcerated persons, such as Plaintiff, are subjected to injury and death
7 from entirely preventable or treatable incidents, such as the incidents complained of herein, that
8 could be easily avoided by simply providing regularly scheduled appointments, physical therapy
9 and follow-up care, and medications for easily manageable conditions.

10 59. A major factor in this nationwide pattern in the use of private, for-profit, medical
11 companies in providing care in jails, is a practice motivated by a desire to cut costs.

12 60. The use of private companies, and the respective contracts shifting various cost
13 between counties and private companies, encourage cost reduction and discourage proper
14 oversight. The for-profit motive contributes significantly to the development of widespread
15 practices, policies, and training that cause deliberate indifference to inmates' serious medical
16 needs, such as Ashley O'Neil, including de-incentivizing use of the appropriate level medical staff
17 to evaluate illness and transfers for needed medical care and treating inmates as though their
18 known serious needs are faked or exaggerated.

19 61. CCDC, METRO, and WELLPATH are part of this nationwide problem and have
20 had numerous prior complaints pertaining to inadequate medical treatment for inmates.

21 62. Upon information and belief, CCDC, METRO, LOMBARDO, and WELLPATH
22 have been negligent, in maintaining inadequate protocols and training related to the correctional
23 officers.

24 63. Upon information and belief, CCDC, METRO, LOMBARDO, and WELLPATH
25 maintain unconstitutional policies and customs regarding providing emergency and/or higher-
26 level health care to inmates in a timely manner.

27 64. It was well known by the Defendants, and each of them, prior to Ashley O'Neil's
28 medical emergency that there was a widespread pattern and practice of deliberately indifferent

1 medical care within CCDC which includes: not having inmates seen or evaluated by higher level
2 medical providers even when necessary to prevent serious injury or death; allowing and training
3 nurses to practice outside their nursing scope; refusing to transfer inmates to higher level of acuity
4 even where necessary to prevent serious injury or death; and, a widespread custom and tolerated
5 practice and habit of treating all inmate detainee illnesses as fabricated, feigned, or not serious
6 until an inmate/detainee can prove otherwise, often to save money on providers and testing.

7 65. Upon information and belief, CCDC, METRO, LOMBARDO, and WELLPATH
8 have failed to adequately train their officers or employees as to when to provide inmates access to
9 medication or medical care in such a way that amounts to deliberate indifference to the serious
10 medical needs of inmates presenting with serious conditions requiring medical evaluation and
11 treatment.

12 66. Upon information and belief, CCDC, METRO, LOMBARDO, and WELLPATH
13 acted with deliberate indifference by training officers not to treat serious injuries and complaints
14 of inmates, or provide access to medication or medical care to inmates who made complaints of
15 physical symptoms or requests for daily medications.

16 67. The need for proper training, and the probability that the failure to provide such
17 training would cause an inmate, like Ashley O'Neil, to be hospitalized and suffer serious injuries
18 is so obvious that Upon information and belief, CCDC, METRO, LOMBARDO, and
19 WELLPATH's failure to provide adequate training constitutes deliberate indifference to Ashley
20 O'Neil's Constitutional rights.

21 68. Upon information and belief, CCDC, METRO, LOMBARDO, and WELLPATH
22 adopted deliberately indifferent customs and practices regarding the staffing of CCDC.

23 69. LOMBARDO is directly liable and responsible for the acts of, DOE OFFICERS,
24 DOE NURSES, DOE NURSE COCO, and/or DOES 1-10 because they are under his control, and
25 repeatedly and knowingly failed to enforce the laws of the State of Nevada and the regulations of
26 CCDC and/or METRO pertaining to the handling of prisoners who are in need of medical attention
27 by plan, custom and/or usage, and, thereby creating within CCDC, an atmosphere of lawlessness
28 in which the named and unnamed DOE OFFICERS DOE NURSES, and DOE NURSE COCO

1 intentionally deprived their victims of medical treatment in the belief that such acts will be
2 condoned and justified by their superiors. Defendant LOMBARDO, therefore, was, or should have
3 been, aware of such unlawful acts, policies, and practices, and practices prior to and at the time of
4 Ashley O'Neil's repeated injuries.

5 **FIRST CAUSE OF ACTION**
6 (Violation of 42 U.S.C. § 1983)

7 70. Plaintiff repeats and realleges the allegations contained in the preceding paragraphs
8 as though fully set forth herein.

9 71. Defendants, and each of them, at all times relevant to this action, were acting under
10 color of state law.

11 72. 42 U.S.C. § 1983 provides in part:

12 Every person who, under color of any statute, ordinance, regulation, custom, or
13 usage of any State or Territory subjects, or causes to be subjected, any person of
14 the United States or other person within the jurisdiction thereof to the deprivation
15 of any rights, privileges, or immunities secured by the Constitution and laws shall
16 be liable to the party injured in an action at law, suit at equity or other proper
17 proceeding for redress.

18 73. At all times relevant hereto, Ashley O'Neil was a citizen of the United States
19 and the Defendants, and each of them, are persons for the purposes for 42 U.S.C. § 1983.

20 74. At all times relevant hereto, Ashley O'Neil was an arrestee, detainee, or prisoner
21 who was entitled to the protections of the Fourth, Eighth, and/or Fourteenth Amendments.

22 75. As an arrestee, detainee, or prisoner, Ashley O'Neil was protected from objectively
23 unreasonable care and/or deliberate indifference to her known medical needs by the Fourth,
24 Eighth, and/or Fourteenth Amendments.

25 76. Under the Fourteenth Amendment, Ashley O'Neil was also protected from conduct
26 that was not rationally related to a legitimate nonpunitive government purposes or actions that are
27 excessive in relation to that purpose under *Kingsley v. Hendrickson*, 135 S. Ct. 2466, 2473 (2015).

28 77. The Due Process Clause under the Fourteenth Amendment requires that the
procedures by which laws are applied be fundamentally fair, so that individuals are not subjected
to the arbitrary exercise of government power. The appropriate framework for assessing
procedural rules requires a determination as to whether the procedures are offensive to the concept

1 of fundamental fairness.

2 78. The denial of medical care by Defendants, and each of them, deprived Ashley
3 O'Neil of her right to be secure in her person against unreasonable seizures guaranteed to Ashley
4 O'Neil under the Fourth Amendment and applied to state actors by the Fourteenth Amendment.

5 79. Defendants, and each of them, knew that the failure to provide timely medical
6 treatment to Ashley O'Neil could result in further significant injury or the unnecessary and wanton
7 infliction of pain, but disregarded that serious need, causing Ashley O'Neil great and permanent
8 bodily harm.

9 80. The acts and omissions of Defendants, and each of them, were sufficiently harmful
10 to evidence deliberate indifference to serious medical needs under *Estelle v. Gamble*, 429 U.S. 97,
11 106, 97 S. Ct. 285, 50 L. Ed. 2d 251 (1976).

12 81. Defendants, and each of them, had a deliberate indifference to Ashley O'Neil's
13 medical care when they knew of her medical needs, disregarded them, and knew she needed
14 follow-up medical care, and knew or should have inferred there was a substantial risk of harm
15 from these medical needs. *Farmer v. Brennan*, 511 U.S. 825, 837, 114 S. Ct. 1970, 128 L. Ed. 2d
16 811 (1994).

17 82. That Defendants, and each of them, failed to treat Ashley O'Neil's condition that
18 resulted in further significant injury and unnecessary and wanton infliction of pain, and the
19 existence of Ashley O'Neil's injury is one that a reasonable doctor would find important and
20 worthy of treatment under *McGukin v. Smith*, 974 F.2d 1050, 1059-60 (9th Cir. 1992).

21 83. Defendants METRO, CCDC, LOMBARDO, and WELLPATH's failure to adopt
22 clear policies and their failure to properly train their officers and employees, were a direct and
23 proximate cause of the constitutional deprivation Ashley O'Neil suffered for failing to render aid
24 to her.

25 84. Ashley O'Neil has a right, clearly established under the Fourth and Eighth
26 Amendment, and enforceable under the Due Process Clause of the Fourteenth Amendment, to be
27 free from neglect and physical abuse, as well as cruel and unusual punishment by Defendants. As
28 a direct and proximate result of Defendant's conduct, Ashley O'Neil was denied due process of

1 law by Defendants' failure to render her aid while in their control and custody and was subjected
2 to cruel and unusual punishment when she was denied necessary medical care by Defendants, and
3 each of such, such that said denial resulted in unwarranted pain, suffering, disfigurement, and
4 permanent damage. The Defendants' conduct was offensive to the concept of fundamental
5 fairness.

6 85. That, as a proximate result of the foregoing wrongful acts, Ashley O'Neil has
7 suffered pain and suffering for Defendants' failure to render aid.

8 86. That the wrongful and unlawful acts perpetrated by the Defendants and each of
9 them, in intentionally disregarding the constitutional rights of Ashley O'Neil were willful,
10 oppressive, malicious, and performed with a wanton disregard for the established and
11 constitutionally protected rights of Ashley.

12 87. Ashley O'Neil was subjected to physical injury and pain and suffering by the illegal
13 acts of Defendant, and each of them, entitling her to compensatory damages, attorneys fees, and
14 punitive damages.

15 88. As a direct, proximate, and legal cause of Defendant's actions as alleged herein,
16 Plaintiff has suffered injuries and damages including, but not limited to, severe emotional distress,
17 psychological trauma, and anxiety.

18 89. As a direct, proximate, and legal cause of Defendant's actions as alleged herein,
19 Plaintiff has been limited in certain occupational and recreational activities, which have caused,
20 and shall continue to cause, loss of earning capacity, lost wages, and loss of enjoyment of life all
21 to Plaintiff's damage in an amount in excess of \$15,000.00.

22 90. As a direct, proximate, and legal cause of Defendant's actions as alleged herein,
23 Plaintiff received medical, psychological, and other treatments for injuries all or some of which
24 conditions may be permanent and disabling and, all to Plaintiff's damage in a sum in excess of
25 \$15,000.00. That said services, care, and treatment are continuing and shall continue in the future.

26 91. Ashley O'Neil has been damaged by the acts and omissions of Defendants, and
27 each of them, in an amount in excess of \$15,000.00, as described above.

28 92. As a direct and proximate result of the negligence of Defendants, and each of them,

1 Ashley O'Neil had to retain the services of **NETTLES | MORRIS** to pursue this action and is entitled
2 to recover costs of suit and reasonable attorney's fees incurred herein.

3 **SECOND CAUSE OF ACTION**

4 **(42 U.S.C. § 1983 Violation of Eighth Amendment to the United States Constitution
Cruel and Unusual Punishment)**

5 93. Plaintiff repeats and realleges the allegations contained in the preceding paragraphs
6 as though fully set forth herein.

7 94. Defendants, and each of them, at all times relevant to this action, were acting under
8 color of state law.

9 95. The denial of medical care and treatment to Ashley O'Neil subjected her to "cruel
10 and unusual punishment" which is prohibited under the Eighth Amendment to the United States
11 Constitution.

12 96. Defendants, and each of them, knew that the failure to render timely medical
13 treatment to Ashley O'Neil could result in further significant injury or the unnecessary and wanton
14 infliction of pain, but disregarded that serious need, causing Ashley O'Neil injuries and damages
15 as set forth herein.

16 97. Among the unnecessary and wanton infliction of pain, constituting cruel and
17 unusual punishment forbidden by the Eighth Amendment, are those that are totally without
18 penological justification. Where law enforcement officials, officers, agents, contractors, and/or
19 employees act with "deliberate indifference" to the inmate's medical health or safety, Defendants,
20 and each of them, are in violation of the Eighth Amendment.

21 98. While under the care, custody and control of Defendants, and each of them, said
22 Defendants were informed by Ashley O'Neil's medical treatment providers including, but not
23 limited to, the doctor and nurses at UMC, that Ashley O'Neil required follow-up medical care and
24 treatment, physical therapy, and the administration of prescription medications, all of which were
25 not provided and/or not timely provided to Ashley O'Neil.

26 99. While under the care, custody and control of Defendants, and each of them, Ashley
27 O'Neil informed Defendant Employees and said Defendants, and each of them, and/or their
28 officers/agents/contractors/employees/staff that she was to have follow-up appointments at UMC

1 after both surgeries and physical therapy, yet was never provided with the proper medical attention
2 she required and was not given the medication prescribed by UMC doctors that she needed to
3 address her infection and pain.

4 100. By failing to provide Ashley O'Neil with the required medical treatment and care
5 they knew she needed, Defendants, and each of them, knowingly subjected her to a substantial
6 risk of physical harm, permanent injury, and unnecessary pain.

7 101. By the actions and omissions described above, Defendants, and each of them,
8 violated 42 USC § 1983, depriving Ashley O'Neil of the following clearly-established and well-
9 settled constitutional rights protected by the Eighth Amendment to the United States Constitution:

10

- 11 • To be free from deliberate indifference to the medical needs of Ashley O'Neil,
12 when Defendants, and each of them, had notice that she required additional
13 medical treatment after her surgeries. That Defendants, and each of them, had
14 notice of the risk of harm that they are enhancing by failing to provide medical
15 treatment to Ashley O'Neil;
- 16 • Defendants, and each of them, subjected Ashley O'Neil to cruel and unusual
17 punishment, prohibited by the Eighth Amendment to the United States
18 Constitution, by depriving Ashley O'Neil of rights described herein,
19 knowingly, maliciously, and with conscious and reckless disregard for whether
20 Ashley's rights and safety would be violated by their acts and omissions.

21 102. As a direct and proximate result of the acts and omissions of Defendants, and each
22 of them, Ashley O'Neil suffered physical injuries, as well as pain and suffering.

23 103. The acts and omissions of Defendants, and each of them, were sufficiently harmful
24 to evidence deliberate indifference to serious medical needs under *Estelle v. Gamble*, 429 U.S. 97,
25 106, 97 S. Ct. 285, 50 L. Ed. 2d 251 (1976).

26 104. Defendants, and each of them, had a deliberate indifference to Ashley O'Neil's
27 medical care when they knew of her medical needs, disregarded them, and knew she needed
28 follow-up medical care, and knew or should have inferred there was a substantial risk of harm
from these medical needs. *Farmer v. Brennan*, 511 U.S. 825, 837, 114 S. Ct. 1970, 128 L. Ed. 2d
811 (1994).

29 105. That Defendants, and each of them, failed to treat Ashley O'Neil's condition that
30 resulted in further significant injury and unnecessary and wanton infliction of pain, and the

existence of Ashley O'Neil's injury is one that a reasonable doctor would find important and worthy of treatment under *McGukin v. Smith*, 974 F.2d 1050, 1059-60 (9th Cir. 1992).

106. The deliberate indifference to Ashley O’Neil’s welfare, and the willful, wanton, oppressive, and malicious conduct of the Defendants, and each of them, which was done with the reckless disregard for Ashley’s rights and safety, entitles Ashley to punitive damages and penalties allowable under 42 USC §1983 and N.R.S. § 42.005.

107. As a direct, proximate, and legal cause of Defendant's actions as alleged herein, Plaintiff has suffered injuries and damages including, but not limited to, severe emotional distress, psychological trauma, and anxiety.

108. As a direct, proximate, and legal cause of Defendant's actions as alleged herein, Plaintiff has been limited in certain occupational and recreational activities, which have caused, and shall continue to cause, loss of earning capacity, lost wages, and loss of enjoyment of life all to Plaintiff's damage in an amount in excess of \$15,000.00.

109. As a direct, proximate, and legal cause of Defendant's actions as alleged herein, Plaintiff received medical, psychological, and other treatments for injuries all or some of which conditions may be permanent and disabling and, all to Plaintiff's damage in a sum in excess of \$15,000.00. That said services, care, and treatment are continuing and shall continue in the future.

110. Ashley O'Neil has been damaged by the acts and omissions of Defendants, and each of them, in an amount in excess of \$15,000.00, as described above.

111. As a direct and proximate result of the acts or omissions of Defendants, and each of them, Ashley O’Neil had to retain the services of the law offices of **NETTLES | MORRIS** to pursue this action and are entitled to recover costs of suit and reasonable attorney’s fees incurred herein.

THIRD CAUSE OF ACTION

(Negligence)

112. Plaintiff repeats and realleges each and every allegation set forth above as though fully set forth herein.

113. At all times mentioned herein, Defendants, and each of them, were subject to a duty of care to avoid causing unnecessary physical harm and distress to the jail population at

1 CCDC in the exercise of the police and state function. The conduct of Defendants, and each of
2 them, as set forth herein did not comply with the standard of care to be exercised by reasonable
3 police officers, detention officers, or medical personnel, thus, the Defendants, and each of them,
4 breached their duty of care.

5 114. Defendants, and each of them, owed a duty to Ashley O'Neil to exercise reasonable
6 care in maintaining inmates with known medical conditions, including those that required follow-
7 up appointments and future care and attention.

8 115. Defendants, and each of them, had a duty to otherwise conduct themselves as
9 reasonable persons would behave in similar positions, particularly in light of the fact that
10 Defendants knew of Ashley O'Neil's medical condition, including that she required follow-up
11 appointments, physical therapy, and prescribed medications, as directed by the treatment providers
12 at UMC including, but not limited to doctors and nurses.

13 116. Defendants, and each of them, breached their duties to Ashley O'Neil by failing to
14 provide her necessary medical treatment and care as described herein. Defendants' conduct
15 recklessly, carelessly, and negligently caused severe injuries to Ashley.

16 117. Defendants, and each of them, further breached their duties to Ashley O'Neil when
17 they failed to maintain adequate policies and procedures, and related training for
18 officers/employees/contractors/agents, regarding inmates with medical conditions that require
19 specific treatment.

20 118. Defendants LOMBARDO, METRO, CCDC, and WELLPATH had a duty to
21 otherwise conduct themselves as reasonable persons would behave in similar positions,
22 particularly in light of the fact that they have non-delegable duty to maintain adequate policies
23 and procedures for handling inmates with medical conditions. Said actions by the Defendants, in
24 concert with their law enforcement officers, were engaged in obvious violation of their duties as
25 sworn law enforcement agents.

26 119. Defendants LOMBARDO, METRO, CCDC, and WELLPATH breached their
27 duties to Ashley O'Neil by failing to exercise reasonable care and control over the Defendant
28 Employees, known and unknown, when they were making medical decisions on behalf of Ashley

1 O'Neil including, but not limited to, the decision to withhold and/or deny required medical care
2 and treatment to Ashley O'Neil. That said conduct recklessly, carelessly, and negligently caused
3 injuries to Ashley.

4 120. As the direct and proximate cause of Defendants', and each of them, actions and
5 omissions as described herein, Ashley O'Neil suffered the injuries and damages as set forth herein.

6 121. That the wrong and unlawful acts perpetrated by Defendant WELLPATH in
7 intentionally disregarding the rights of the Ashley O'Neil were willful, oppressive, malicious, and
8 with wanton disregard for the established rights of the Ashley, entitling Ashley to punitive
9 damages.

10 122. Further, at all times relevant hereto, an officer, director or managing agent of
11 Defendant WELLPATH, who was expressly authorized to direct or ratify each
12 employee/contractor/agent's conduct on behalf of said Defendant, have both expressly and
13 impliedly ratified the wrongful conduct of its employees/contractors/agents as alleged herein by
14 condoning said treatment of inmates, such as Ashley O'Neil, by failing to discipline, investigate,
15 terminate, and report said wrongful conduct, and by financially profiting from its contract with
16 Clark County. As such, Defendant WELLPATH is liable to Plaintiff for punitive damages.

17 123. As a direct, proximate, and legal cause of Defendant's actions as alleged herein,
18 Plaintiff has suffered injuries and damages including, but not limited to, severe emotional distress,
19 psychological trauma, and anxiety.

20 124. As a direct, proximate, and legal cause of Defendant's actions as alleged herein,
21 Plaintiff has been limited in certain occupational and recreational activities, which have caused,
22 and shall continue to cause, loss of earning capacity, lost wages, and loss of enjoyment of life all
23 to Plaintiff's damage in an amount in excess of \$15,000.00.

24 125. As a direct, proximate, and legal cause of Defendant's actions as alleged herein,
25 Plaintiff received medical, psychological, and other treatments for injuries all or some of which
26 conditions may be permanent and disabling and, all to Plaintiff's damage in a sum in excess of
27 \$15,000.00. That said services, care, and treatment are continuing and shall continue in the future.

28 126. As a direct and proximate result of the Defendants negligence, and each of them,

1 Ashley O'Neil has been damaged in an amount in excess of \$15,000.00, as described above.

2 127. As a direct and proximate result of the acts or omissions of Defendants, and each
3 of them, Ashley O'Neil had to retain the services of the law offices of **NETTLES | MORRIS** to
4 pursue this action and are entitled to recover costs of suit and reasonable attorney's fees incurred
5 herein.

6 **FOURTH CAUSE OF ACTION**
7 **(Violation of Plaintiffs Civil Rights - *Monell* Liability for Failure to Train)**

8 128. Plaintiff repeats and realleges the allegations contained in the preceding paragraphs
as though fully set forth herein.

9 129. While acting under the color of state law and within the course and scope of their
10 duties and obligations as subdivisions of the State of Nevada and their employment as employees
11 and police officers for METRO and/or CCDC, LOMBARDO, and WELLPATH, failed and
12 refused to train Defendant Employees to properly assess and obtain medical and psychological
13 care for arrestees and inmates such as Ashley O'Neil, even though Ashley's medical providers at
14 UMC had directly informed METRO, CCDC, Defendants, and Defendant Employees and/or their
15 officers/employees/agents/contractors/staff that Ashley required follow-up treatment and care
16 after her admission.

17 130. The training policies of METRO, CCDC, LOMBARDO, and WELLPATH were
18 not adequate to train its employees and officers with regard to providing medical care to arrestees
19 and inmates.

20 131. As a result, Defendant Employees, DOE OFFICERS, and DOE NURSES were not
21 able to handle a situation in which an arrestee or inmate, such as Ashley O'Neil, required specific
22 additional medical care and treatment.

23 132. These inadequate training policies existed prior to the date of this incident and
24 continue to this day. METRO, CCDC, LOMBARDO, and WELLPATH, were deliberately
25 indifferent to the known or obvious consequences of their failure to train their officers adequately
26 with regard to assessing the medical needs of arrestees and inmates such as Ashley O'Neil and
27 obtaining the proper medical care for such arrestees or inmates.

28 133. METRO, CCDC, LOMBARDO, and WELLPATH, were aware that failure to

1 implement some sort of training with regard to their officers/employees/agents/contractors/staff's
2 ability to properly assess and treat the medical needs of arrestees and inmates such as Ashley
3 O'Neil could result in severe injury to arrestees or inmates.

4 134. The failure of METRO, CCDC, LOMBARDO, and WELLPATH to provide
5 adequate training with the regard to the assessment of the medical needs of arrestees and inmates
6 resulted in a deprivation of Ashley O'Neil's Constitutional rights.

7 135. There is a direct causal link between METRO, CCDC, LOMBARDO, and
8 WELLPATH's policies or customs and the deprivations of Ashley O'Neil's Constitutional rights
9 as alleged herein, which said policies were the moving force behind said Constitutional violations.

10 136. METRO, CCDC, LOMBARDO, and WELLPATH's failure to train as alleged
11 herein amounted to deliberate indifference to the Constitutional rights of persons with whom the
12 Defendants, and each of them, came into contact with, including Ashley O'Neil as alleged herein.

13 137. METRO, CCDC, LOMBARDO, and WELLPATH made a deliberate choice to
14 follow the courses of action as described herein, including but not limited to, denying Ashley
15 O'Neil the required medical care and treatment ordered by the providers at UMC, and said choice
16 to follow this course of action was made from among various alternatives by Defendants, and each
17 of them.

18 138. METRO, CCDC, LOMBARDO, and WELLPATH's duties assigned to specific
19 officers or employees, including but not limited to Defendant Employees, and the need for more
20 or different training was so obvious to METRO, CCDC, LOMBARDO, and WELLPATH, and
21 the inadequacy so likely to result in the violation of inmates' Constitutional rights, such as Ashley
22 O'Neil, that the METRO, CCDC, LOMBARDO, and WELLPATH can reasonably be said to have
23 been deliberately indifferent to Ashley O'Neil's needs.

24 139. The deficiencies in METRO, CCDC, LOMBARDO, and WELLPATH's training
25 programs are closely related to and caused Ashley O'Neil's ultimate resulting injuries as set forth
26 herein.

27 140. By failing to provide adequate training to Defendant Employees, DOE OFFICERS
28 and DOE NURSES, METRO, CCDC, LOMBARDO, and WELLPATH, acted with an intentional,

reckless, and callous disregard for Ashley O’Neil’s safety, well-being, life, and Constitutional rights.

141. The actions of Defendants, and each of them, were willful, wanton, oppressive, malicious, fraudulent, and extremely offensive and unconscionable to any person of normal sensibilities.

142. As a direct, proximate, and legal cause of Defendant's actions as alleged herein, Plaintiff has suffered injuries and damages including, but not limited to, severe emotional distress, psychological trauma, and anxiety.

143. As a direct, proximate, and legal cause of Defendant's actions as alleged herein, Plaintiff has been limited in certain occupational and recreational activities, which have caused, and shall continue to cause, loss of earning capacity, lost wages, and loss of enjoyment of life all to Plaintiff's damage in an amount in excess of \$15,000.00.

144. As a direct, proximate, and legal cause of Defendant's actions as alleged herein, Plaintiff received medical, psychological, and other treatments for injuries all or some of which conditions may be permanent and disabling and, all to Plaintiff's damage in a sum in excess of \$15,000.00. That said services, care, and treatment are continuing and shall continue in the future.

145. As a direct and proximate result of Defendants, and each of them, acts and omissions described above, Ashley O'Neil has been damaged in an amount in excess of \$15,000.00, as described above.

146. As a direct and proximate result of the acts or omissions of Defendants, and each of them, Ashley O’Neil had to retain the services of the law offices of **NETTLES | MORRIS** to pursue this action and are entitled to recover costs of suit and reasonable attorney’s fees incurred herein.

FIFTH CAUSE OF ACTION
**(Violation of Plaintiffs Civil Rights - *Monell* Liability for
Unconstitutional Custom or Policy)**

147. Plaintiff repeats and realleges the allegations contained in the preceding paragraphs as though fully set forth herein.

148. Defendants, and each of them, at all times relevant to this action, were acting under

1 color of state law.

2 149. The decisions, policies, and practices of METRO, CCDC, LOMBARDO, and
3 WELLPATH's lawmakers and policy making officials as described herein as so pervasive,
4 persistent, and widespread as to have the force of law.

5 150. METRO, CCDC, LOMBARDO, and WELLPATH had a policy of inaction in
6 which it expressly and/or impliedly promoted and/or condoned its employees/officers/agents/staff
7 actions in depriving inmates, such as Ashley O'Neil, of required and necessary medical care and
8 treatment.

9 151. METRO, CCDC, LOMBARDO, and WELLPATH had a policy of inaction
10 which it failed to discipline or train employees/officers/agents/staff that deprived inmates, such as
11 Ashley O'Neil, of required and necessary medical care and treatment.

12 152. At all times relevant herein, Defendants, and each of them, deprived Ashley O'Neil
13 of the rights and liberties secured to her by the Fourth, Eighth and Fourteenth Amendments to the
14 United States Constitution. Specifically, Defendants, and each of them, and their supervising and
15 managerial employees, agents, and representatives, acting with gross negligence and with reckless
16 and deliberate indifference to the rights and liberties of the public in general, and of Ashley O'Neil,
17 and of persons in her class, situation, and comparable position in particular, knowingly
18 maintained, enforced and applied an official recognized custom, policy, and practice of:

- 19 • Employing and retaining as police officers and other personnel, they knew or
20 reasonably should have known had dangerous propensities for abusing their
21 authority; for mistreating citizens; and for failing to provide medical care for
arrestees and inmates who were suffering from pain or other medical conditions;
- 22 • Inadequately supervising, training, controlling, assigning, and disciplining Police
Officers, and other personnel, who Defendants knew or in the exercise of
23 reasonable care should have known had the aforementioned dangerous propensities
- 24 • By failing to adequately train officers, and failing to institute appropriate policies,
regarding the assessment of arrestees and inmates for medical care;
- 25 • Having and maintaining an unconstitutional policy, custom, and practice of
inadequate training regarding providing medical care to arrestees and inmates such
as Ashley O'Neil.
- 26 • The policies, customs, and practices of Defendants, and each of them, were done
with a deliberate indifference to safety and rights of Ashley O'Neil, and other
27 members of the public;

1
2 153. By reason of the aforementioned policies and practice of Defendants, and each of
3 them, Ashley O'Neil suffered severe medical injuries as alleged herein. Defendants, and each of
4 them, had actual or constructive knowledge of the deficient policies, practices, and customs
5 alleged in the paragraphs above.

6 154. Despite having knowledge as stated above these Defendants, and each of them,
7 condoned, tolerated and through actions and inactions thereby ratified such policies.

8 155. Defendants, and each of them, acted with deliberate indifference to the foreseeable
9 effects and consequences of these policies with respect to Ashley O'Neil's constitutional rights,
10 and other individuals similarly situated.

11 156. By perpetrating, sanctioning, tolerating, and ratifying the outrageous conduct and
12 other wrongful acts, Defendants, and each of them, acted with an intentional, reckless, and callous
13 disregard for Ashley O'Neil's life and constitutional rights.

14 157. Defendants, and each of them, acted with willful, wanton, oppressive, malicious,
15 fraudulent, and extremely offensive and unconscionable to any person or normal sensibilities.

16 158. By reason of the aforementioned acts or omissions of Defendants, and each of
17 them, Ashley O'Neil was caused to incur related medical expenses.

18 159. There is a direct causal link between METRO, CCDC, LOMBARDO, and
19 WELLPATH's policies or customs and the deprivations of Ashley O'Neil's Constitutional rights
20 as alleged herein, which said policies were the moving force behind said Constitutional violations.

21 160. METRO, CCDC, LOMBARDO, and WELLPATH's failure to train, discipline,
22 and their decisions, policies, and practices including, but not limited to, their policy of inaction as
23 alleged herein amounted to deliberate indifference to the Constitutional rights of persons with
24 whom the Defendants, and each of them, came into contact with, including Ashley O'Neil as
25 alleged herein.

26 161. METRO, CCDC, LOMBARDO, and WELLPATH made a deliberate choice to
27 follow the courses of action as described herein, including but not limited to, adopting said
28 decisions, policies, and practices including, but not limited to, their policy of inaction, and said

1 choice to follow this course of action was made from among various alternatives by Defendants,
2 and each of them.

3 162. METRO, CCDC, LOMBARDO, and WELLPATH's duties assigned to specific
4 officers or employees, including but not limited to Defendant Employees, and the need for
5 different decisions, policies, and practices was so obvious to METRO, CCDC, LOMBARDO, and
6 WELLPATH, and the inadequacy so likely to result in the violation of inmates' Constitutional
7 rights, such as Ashley O'Neil, that the METRO, CCDC, LOMBARDO, and WELLPATH can
8 reasonably be said to have been deliberately indifferent to Ashley O'Neil's needs.

9 163. The deficiencies in METRO, CCDC, LOMBARDO, and WELLPATH's
10 training programs are closely related to and caused Ashley O'Neil's ultimate resulting injuries as
11 set forth herein.

12 164. Accordingly, Defendants, and each of them, are liable to Ashley O'Neil for
13 compensatory damages under 42 U.S.C. § 1983.

14 165. As a direct and proximate result of Defendants, and each of them, acts and
15 omissions described above, Ashley O'Neil has been damaged in an amount in excess of
16 \$15,000.00, as described above.

17 166. As a direct, proximate, and legal cause of Defendant's actions as alleged herein,
18 Plaintiff has suffered injuries and damages including, but not limited to, severe emotional distress,
19 psychological trauma, and anxiety.

20 167. As a direct, proximate, and legal cause of Defendant's actions as alleged herein,
21 Plaintiff has been limited in certain occupational and recreational activities, which have caused,
22 and shall continue to cause, loss of earning capacity, lost wages, and loss of enjoyment of life all
23 to Plaintiff's damage in an amount in excess of \$15,000.00.

24 168. As a direct, proximate, and legal cause of Defendant's actions as alleged herein,
25 Plaintiff received medical, psychological, and other treatments for injuries all or some of which
26 conditions may be permanent and disabling and, all to Plaintiff's damage in a sum in excess of
27 \$15,000.00. That said services, care, and treatment are continuing and shall continue in the future.

28 169. As a direct and proximate result of the acts or omissions of Defendants, and each

1 of them, Ashley O'Neil had to retain the services of the law offices of **NETTLES | MORRIS** to
2 pursue this action and are entitled to recover costs of suit and reasonable attorney's fees incurred
3 herein.

4 **SIXTH CAUSE OF ACTION**
5 **(Violations of the Constitution of the State of Nevada)**

6 170. Plaintiff repeats and realleges each and every allegation set forth above as though
7 fully set forth herein.

8 171. The State of Nevada and its political subdivisions have waived their immunity from
9 liability and consented to have its liability determined in accordance with the same rules of law as
10 are applied to civil actions against natural persons and corporations.

11 172. The laws of the State of Nevada allow for action for injury, wrongful death or other
12 damage resulting from the deprivation of any rights, privileges or immunities secured by the
13 Constitution of the State of Nevada.

14 173. Nev. Const. Art. 1, § 6 states that cruel or unusual punishments shall not be
15 inflicted.

16 174. Nev. Const. Art. 1, § 8(2) states that no person shall be deprived of life, liberty, or
17 property, without due process of law.

18 175. The Due Process Clause of the Nevada Constitution protects individuals from state
19 actions that deprive them of life, liberty, or property without due process of law.¹

20 176. At all times relevant hereto, Defendants METRO, CCDC, LOMBARDO, and
21 WELLPATH, and by and through its employees, agents, contractors, and/or staff, including but
22 not limited to Defendant Employees, violated the Constitution of the State of Nevada by causing
23 Ashley O'Neil to be deprived of the rights, privileges, and/or immunities secured in the
24 Constitution of the State of Nevada, as alleged herein, and by failing to adhere their oath of office.

25 177. At all times relevant hereto, Defendant Employees were employed by METRO,
26 CCDC, LOMBARDO, and WELLPATH, and pursuant to the doctrine of *respondeat superior*,

27
28 ¹ See also *Saticoy Bay LLC Series 350 Durango 104 v. Wells Fargo Home Mortg.*, 133 Nev. 28, 30, 388 P.3d 970, 972 (2017).

1 METRO, CCDC, LOMBARDO, and WELLPATH, are liable to Plaintiff for the injuries and
2 damages caused by Defendants' wrongful acts, as alleged herein.

3 178. At all times relevant hereto, Ashley O'Neil was a citizen of the State of Nevada,
4 and an arrestee, detainee, or prisoner who was entitled to the protections of Nev. Const. Art. 1, §
5 6 and Nev. Const. Art. 1, § 8(2), as protected under the Nevada Constitution.

6 179. As an arrestee, detainee, or prisoner, Ashley O'Neil was protected from objectively
7 unreasonable care and/or deliberate indifference to her known medical needs resulting in cruel
8 and unusual punishment under Nev. Const. Art. 1, § 8(2).

9 180. The Due Process Clause under the Nev. Const. Art. 1, § 6, requires that the
10 procedures by which laws are applied be fundamentally fair, so that individuals are not subjected
11 to the arbitrary exercise of government power. The appropriate framework for assessing
12 procedural rules requires a determination as to whether the procedures are offensive to the concept
13 of fundamental fairness.

14 181. The denial of medical care by Defendants, and each of them, deprived Ashley
15 O'Neil of her rights under the Nevada Constitution as set forth herein.

16 182. Defendants, and each of them, knew that failure to provide timely medical
17 treatment to Ashley O'Neil could result in further significant injury or the unnecessary and wanton
18 infliction of pain, but disregarded that serious need, causing Ashley O'Neil great and permanent
19 bodily harm.

20 183. Ashley O'Neil has a right, clearly established and enforceable, as protected under
21 the Nevada Constitution, to be free from neglect and physical abuse by Defendants. As a direct
22 and proximate result of Defendant's conduct, Ashley O'Neil was denied due process of law as
23 protected under the Nevada Constitution, by Defendants' failure to render her aid while in their
24 control and custody. The Defendants' conduct was offensive to the concept of fundamental
25 fairness, protected under the Nevada Constitution.

26 184. That the wrongful and unlawful acts perpetrated by the Defendants and each of
27 them, in intentionally disregarding the Nevada constitutional rights of Ashley O'Neil were willful,
28 oppressive, malicious, and performed with a wanton disregard for the established and

1 constitutionally protected rights of Ashley.

2 185. Ashley O'Neil was subjected to physical injury and pain and suffering by the acts
3 of Defendants, and each of them, entitling her to compensatory damages, attorneys fees, and
4 punitive damages.

5 186. As a direct, proximate, and legal cause of Defendant's actions as alleged herein,
6 Plaintiff has suffered injuries and damages including, but not limited to, severe emotional distress,
7 psychological trauma, and anxiety.

8 187. As a direct, proximate, and legal cause of Defendant's actions as alleged herein,
9 Plaintiff has been limited in certain occupational and recreational activities, which have caused,
10 and shall continue to cause, loss of earning capacity, lost wages, and loss of enjoyment of life all
11 to Plaintiff's damage in an amount in excess of \$15,000.00.

12 188. As a direct, proximate, and legal cause of Defendant's actions as alleged herein,
13 Plaintiff received medical, psychological, and other treatments for injuries all or some of which
14 conditions may be permanent and disabling and, all to Plaintiff's damage in a sum in excess of
15 \$15,000.00. That said services, care, and treatment are continuing and shall continue in the future.

16 189. Ashley O'Neil has been damaged by the acts and omissions of Defendants, and
17 each of them, in an amount in excess of \$15,000.00, as described above.

18 190. As a direct and proximate result of the negligence of Defendants, and each of them,
19 Ashley O'Neil had to retain the services of **NETTLES | MORRIS** to pursue this action and is entitled
20 to recover costs of suit and reasonable attorney's fees incurred herein.

21 **SEVENTH CAUSE OF ACTION**
22 **(Negligent Hiring, Training, Supervision and Retention)**

23 191. Plaintiff repeats and realleges each and every allegation contained in the preceding
24 paragraphs and incorporate the same herein by reference as though fully set forth herein.

25 192. At all times relevant hereto, Defendants METRO, CCDC, and WELLPATH were
26 responsible for the hiring, training, supervision, retention, and control of their employees,
27 including but not limited to, Defendant Employees.

28 193. Defendants METRO, CCDC, and WELLPATH owed a non-delegable duty to
inmates including, but not limited to, Plaintiff, to exercise due care in their dealings through its

1 selection, training, supervision, oversight, direction, retention and control of said Defendants'
2 Employees, agents, contractors, and/or staff.

3 194. Defendants METRO, CCDC, and WELLPATH breached their duty by hiring,
4 failing to supervise, failing to train, and retaining Defendant Employees even though Defendants
5 knew, or reasonably should have known, of Defendant Employees' dangerous propensities as
6 described herein.

7 195. Defendants METRO, CCDC, and WELLPATH breached their duty by failing to
8 adopt, administer and/or enforce adequate policies and/or procedures to protect inmates including,
9 but not limited to, Plaintiff, from abuse of power, harassment, denial of medical care, cruel and
10 unusual punishment, and the violation of constitutional rights secured by the Nevada and United
11 States' Constitutions, by Defendants' employees, agents, contractors, and/or staff including, but
12 not limited to, Defendants' Employees as alleged herein.

13 196. Defendants METRO, CCDC and WELLPATH breached their duty by failing to
14 adequately train their employees, agents, contractors, staff, and/or personnel, as alleged herein.

15 197. Defendants METRO, CCDC and WELLPATH breached their duty by failing to
16 use reasonable care to protect inmates including, but not limited to, Plaintiff, from Defendants'
17 Employees abuse of power, harassment, denial of medical care, cruel and unusual punishment,
18 and the violation of constitutional rights secured by the Nevada and United States' Constitutions.

19 198. As a result of Defendants METRO, CCDC and WELLPATH's actions as alleged
20 herein, Defendant Employees had ability and/or opportunity to commit the acts as alleged herein.

21 199. As a direct, proximate, and legal cause of Defendant's actions as alleged herein,
22 Ashley O'Neil was subjected to physical injury and pain and suffering by the acts of Defendants,
23 and each of them, entitling her to compensatory damages, attorneys fees, and punitive damages.

24 200. As a direct, proximate, and legal cause of Defendant's actions as alleged herein,
25 Plaintiff has suffered injuries and damages including, but not limited to, severe emotional distress,
26 psychological trauma, and anxiety.

27 201. As a direct, proximate, and legal cause of Defendant's actions as alleged herein,
28 Plaintiff has been limited in certain occupational and recreational activities, which have caused,

1 and shall continue to cause, loss of earning capacity, lost wages, and loss of enjoyment of life all
2 to Plaintiff's damage in an amount in excess of \$15,000.00.

3 202. As a direct, proximate, and legal cause of Defendant's actions as alleged herein,
4 Plaintiff received medical, psychological, and other treatments for injuries all or some of which
5 conditions may be permanent and disabling and, all to Plaintiff's damage in a sum in excess of
6 \$15,000.00. That said services, care, and treatment are continuing and shall continue in the future.

7 203. Ashley O'Neil has been damaged by the acts and omissions of Defendants, and
8 each of them, in an amount in excess of \$15,000.00, as described above.

9 204. As a direct and proximate result of the negligence of Defendants, and each of them,
10 Ashley O'Neil had to retain the services of **NETTLES | MORRIS** to pursue this action and is entitled
11 to recover costs of suit and reasonable attorney's fees incurred herein.

12 **EIGHTH CAUSE OF ACTION**
13 **(Concert of Action against all Defendants)**

14 205. Plaintiff repeats and realleges each and every allegation contained in the preceding
15 paragraphs and incorporate the same herein by reference as though fully set forth herein.

16 206. Upon information and belief, at all times relevant hereto, Defendants, and each of
17 them, acted with one another and/or acted together, to commit the torts alleged herein.

18 207. Upon information and belief, at all times relevant hereto, Defendants, and each of
19 them, were acting in concert and/or pursuant to a common design.

20 208. Defendants' conduct as alleged herein was inherently dangerous or poses a
21 substantial risk of harm to inmates, including but not limited to Plaintiff.

22 209. Upon information and belief, at all times relevant hereto, Defendants, and each of
23 them, agreed to engage in the inherently dangerous activities as described herein, with a known
24 risk of harm to persons housed at the CCDC, including Plaintiff, that could lead to the commission
25 of a tort, as alleged herein.

26 210. At all times relevant hereto, Defendant Employees were employed by Defendants
27 METRO, CCDC, and WELLPATH and pursuant to NRS 41.130 and the doctrine of *respondeat
superior*, Defendants METRO, CCDC, and WELLPATH are liable to Plaintiff for the injuries and
28 damages caused by Defendants' wrongful acts, as alleged herein.

211. As a direct, proximate, and legal cause of Defendants' conduct, Plaintiff has suffered injuries and damages including, but not limited to, severe emotional distress, psychological trauma, and anxiety.

212. As a direct, proximate, and legal cause of Defendants' conduct, Plaintiff has been limited in certain occupational and recreational activities, which have caused, and shall continue to cause, loss of earning capacity, lost wages, and loss of enjoyment of life all to Plaintiff's damage in an amount in excess of \$15,000.00.

213. As a direct, proximate, and legal cause of Defendants' conduct, Plaintiff received medical, psychological, and other treatments for injuries all or some of which conditions may be permanent and disabling and, all to Plaintiff's damage in a sum in excess of \$15,000.00. That said services, care, and treatment are continuing and shall continue in the future.

214. Ashley O'Neil has been damaged by the acts and omissions of Defendants, and each of them, in an amount in excess of \$15,000.00, as described above.

215. As a direct and proximate result of the negligence of Defendants, and each of them, Ashley O’Neil had to retain the services of **NETTLES | MORRIS** to pursue this action and is entitled to recover costs of suit and reasonable attorney’s fees incurred herein.

NINTH CAUSE OF ACTION
(Negligent Infliction of Emotional Distress)

216. Plaintiff repeats and realleges each and every allegation contained in the preceding paragraphs and incorporate the same herein by reference as though fully set forth herein.

217. The actions of Defendants, and each of them, as described herein constitute negligent infliction of emotional distress, emotionally impacting Plaintiff and causing Plaintiff to suffer shock and emotional distress as a direct and proximate result thereof.

218. The actions of Defendant Employees, and each of them, as described herein, were committed within the course and scope of their employment with Defendants METRO, CCDC, LOMBARDO, and WELLPATH and pursuant to NRS 41.130 and the doctrine of *respondeat superior*, METRO, CCDC, LOMBARDO, and WELLPATH are liable to Plaintiff for the injuries and damages caused by Defendant Employees' wrongful acts, as alleged herein.

1 219. Based on the nature and scope of Defendant Employees' employment with
2 METRO, CCDC, LOMBARDO, and WELLPATH and their unsupervised, untrained,
3 undisciplined access to inmates, including but not limited to Plaintiff, and further considering that
4 Plaintiff Ashley O'Neil's movement was restricted in light her being in Defendants' custody and
5 as a result of her injuries, Plaintiff was vulnerable and susceptible to unreported acts of
6 harassment, discrimination, abuse and/or Defendants' withholding of necessary and required
7 medical care and treatment, it was reasonably foreseeable to Defendants METRO, CCDC,
8 LOMBARDO, and WELLPATH under the facts and circumstances as alleged herein, that
9 Defendant Employees would engaged in the conduct set forth herein.

10 220. As a result of the negligent infliction of emotional distress as described herein,
11 Plaintiff has suffered injuries and damages including, but not limited to, severe emotional distress,
12 psychological trauma, and anxiety.

13 221. As a direct, proximate, and legal cause of the negligent infliction of emotional
14 distress as described herein, Plaintiff has been limited in certain occupational and recreational
15 activities, which have caused, and shall continue to cause, loss of earning capacity, lost wages,
16 and loss of enjoyment of life all to Plaintiff's damage in an amount in excess of \$15,000.00.

17 222. As a direct, proximate, and legal cause of the negligent infliction of emotional
18 distress as described herein, Plaintiff received medical, psychological, and other treatments for
19 injuries all or some of which conditions may be permanent and disabling and, all to Plaintiff's
20 damage in a sum in excess of \$15,000.00. That said services, care, and treatment are continuing
21 and shall continue in the future.

22 223. As a direct, proximate, and legal cause of the negligent infliction of emotional
23 distress as described herein, Plaintiff has been required to retain the service of **NETTLES | MORRIS**
24 to prosecute this action and is entitled to recovery reasonable attorney's fees and costs incurred
25 herein.

26
27 **WHEREFORE**, PLAINTIFF expressly reserving the right to amend this complaint prior
28 to or at the time of trial of this action, to insert those items of damage not yet fully ascertainable,

1 prays for judgment against the Defendants, and each of them, as follows:

- 2 1. For general damages in excess of \$15,000.00;
- 3 2. For special damages in excess of \$15,000.00;
- 4 3. For pecuniary damages in an amount in excess of \$15,000.00;
- 5 4. For punitive damages;
- 6 5. For equitable relief that Defendants METRO, CCDC, and WELLPATH be
7 required to adopt policies to prevent further incidents such as complained of herein;
- 8 6. For equitable relief that Defendants METRO, CCDC, and WELLPATH be
9 required to comply with training requirements for its employees to prevent further
10 incidents such as complained of herein;
- 11 7. For equitable relief that Defendant Employees be investigated and disciplined
12 including, but not limited to, termination of employment;
- 13 8. For past, present, and future medical expenses in a sum to be determined at trial;
- 14 9. For general damages for pain, suffering, mental distress, anguish and fear, to be
15 determined at trial;
- 16 10. For any and all pre- and post-judgment interest as permitted by law;
- 17 11. For reasonable attorney's fees and costs of suit; and
- 18 12. For such other and further relief as the court deems just and proper.

19 DATED this 22nd day of December, 2021.

20
21 **NETTLES | MORRIS**

22 /s/ Andréa L. Viera, Esq.

23 CHRISTIAN M. MORRIS, ESQ.

24 Nevada Bar No. 11218

25 ALEXANDRA B. MCLEOD, ESQ.

26 Nevada Bar No. 8185

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27 *Attorneys for Plaintiff*