

**FILED**  
**SAN MATEO COUNTY**

SEP 28 2016

Clerk of the Superior Court

By \_\_\_\_\_  
DEPUTY CLERK

1 Paul A. Matiasic, SBN 226448  
Hannah E. Mohr, SBN 294193  
2 **MATIASIC & JOHNSON LLP**  
44 Montgomery Street, Suite 3850  
3 San Francisco, CA 94104  
Phone: 415.675.1089  
4 Facsimile: 415.675.1103

5 Attorneys for Plaintiff  
6 ROBERT DOE

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
8 COUNTY OF SAN MATEO

16 CIV 01627

10 ROBERT DOE,

CASE NO.

11 Plaintiff,

COMPLAINT FOR DAMAGES

12 vs.

- (1) Negligence
- (2) Negligent Hiring/Retention
- (3) Negligent Supervision/Failure to Warn
- (4) Premises Liability
- (5) Battery
- (6) Sexual Battery
- (7) Childhood Sexual Abuse
- (8) Intentional Infliction of Emotional Distress
- (9) Negligence Per Se

13 STANFORD HEALTH CARE; ROBERT  
LASTINGER; and DOES 1 THROUGH 25,  
14 INCLUSIVE,

15 Defendants.

18 DEMAND FOR JURY TRIAL

20 BY FAX

21  
22  
23 COMES NOW Plaintiff ROBERT DOE, by and through his undersigned attorneys, for  
24 causes of action against Defendants, and each of them, hereby alleges as follows:

25 1. All acts, occurrences and transactions hereafter mentioned occurred in the City of  
26 Redwood City, County of San Mateo, State of California.  
27  
28

Matiasic & Johnson LLP  
44 Montgomery St., Suite 3850  
San Francisco, CA 94104



1           2.       At all relevant times herein, Plaintiff ROBERT DOE (hereinafter "Plaintiff") was a  
2 minor as defined in California law, and currently is a competent adult and resident of the State of  
3 California.

4           3.       Plaintiff is informed and believes, and upon such information alleges, that  
5 Defendant STANFORD HEALTH CARE at all relevant times herein was, and is now, a  
6 corporation organized and existing under the laws of the State of California, with its principal place  
7 of business located at 300 Pasteur Drive H3200, in the City of Stanford, County of Santa Clara,  
8 State of California at all relevant times herein did, and does currently, govern, own, operate and  
9 control the Stanford medical facility located at 450 Broadway Street in the City of Redwood City,  
10 County of San Mateo, State of California.

11           4.       At all relevant times herein, Defendant ROBERT LASTINGER was, and is believed  
12 to be currently, an individual with a permanent residence located within the County of Alameda.  
13 At all relevant times herein, Defendant ROBERT LASTINGER (hereafter "LASTINGER") was an  
14 employee of Defendants STANFORD HEALTH CARE and DOES 1-10, and each of them.  
15 Plaintiff is informed and believes, and upon such information alleges, that LASTINGER was hired,  
16 trained, retained, supervised, and held out to be an employee of Defendants STANFORD HEALTH  
17 CARE and DOES 1-10, and each of them, and as such, routinely had access to individuals at the  
18 premises before, during, and after surgery, in their most vulnerable states. At all relevant times  
19 herein, LASTINGER was acting within the course and scope of his employment for Defendants  
20 STANFORD HEALTH CARE and DOES 1-10, and each of them.

21           5.       At all relevant times herein, Defendants DOES 11-25, and each of them, were  
22 employed with Defendants STANFORD HEALTH CARE and DOES 1-10, and each of them, as  
23 nurses, manages, patient care coordinators, anesthesia techs, and scrub techs, among other  
24 positions. DOES 11-25, and each of them, were hired, trained, retained, supervised, and held out to  
25  
26  
27  
28

1 be employees of Defendants STANFORD HEALTH CARE and DOES 1-10, and each of them. At  
2 all relevant times herein, DOES 11-25, and each of them, were acting within the course and scope  
3 of their employment for Defendants STANFORD HEALTH CARE and DOES 1-10, and each of  
4 them. DOES 11-25, and each of them, were mandatory reporters as health care practitioners within  
5 the meaning of California Penal Code Sections 11160, 11161, 11166, and Welfare and Institutions  
6 Code Sections 15610, and 15630.

8 6. Plaintiff is unaware of the true names and capacities of Defendants sued in this  
9 Complaint as DOES 1 through 25, inclusive, and therefore sues these Defendants by such fictitious  
10 names. As appropriate, Plaintiff will amend this Complaint to allege their true names and  
11 capacities when ascertained.

12 7. Plaintiff is informed and believes, and upon such information alleges, that each of  
13 the fictitiously named Defendants is responsible in some manner, or ratified and condoned the  
14 behavior and acts of each other Defendant, for the occurrences herein alleged and that Plaintiff's  
15 injuries and damages herein were proximately caused by that conduct.

17 8. At all times mentioned herein, each and every of the Defendants herein was the  
18 agent, ostensible agent, licensee, servant, partner, joint venturer, employer, employee, assistant,  
19 relative, or volunteer of each of the other Defendants, and each was at all times alleged herein  
20 acting in the course and scope of said agency, ostensible agency, license, service, partnership, joint  
21 venture, employment, assistance, relation, and volunteering.

23 9. Plaintiff alleges that at all times mentioned herein Defendants STANFORD  
24 HEALTH CARE and DOES 1-10, and each of them, were in possession of, owned, operated,  
25 managed, supervised, monitored, maintained, and controlled the medical facility premises located  
26 at 450 Broadway Street in the City of Redwood City, County of San Mateo, State of California,  
27 whereon Defendants carried on the business of operating an outpatient surgical and medical  
28

1 facility. Defendants STANFORD HEALTH CARE and DOES 1-10, and each of them, actively  
2 and expressly held this outpatient facility to be a safe, comfortable, and professional environment  
3 wherein individuals at the premises, including Plaintiff, could feel safe.

4           10. In the days, weeks, months, and years preceding March 31, 2015, LASTINGER  
5 engaged in conduct that would have provided notice to a reasonably prudent person of his  
6 propensity to engage in inappropriate sexual contact with individuals at Stanford medical facilities.  
7 His superiors at Defendants STANFORD HEALTH CARE and DOES 1 through 10, and each of  
8 them, knew or reasonably should have known, that his behavior was abnormal, troubling, and  
9 suggestive of proclivity to have inappropriate sexual contact with individuals at Stanford medical  
10 facilities. LASTINGER's conduct included, but was not limited to, inappropriately touching and  
11 fondling male individuals' genitalia while they were anesthetized, either before, during, or after  
12 various surgical procedures.

13           11. Despite the fact that LASTINGER engaged in prior conduct that would have  
14 provided notice to a reasonably prudent person of his propensity to engage in inappropriate sexual  
15 contact with individuals at the premises, of which his superiors at Defendants STANFORD  
16 HEALTH CARE and DOES 1 through 10, and each of them, were aware, his superiors negligently  
17 hired, referred, retained, and supervised LASTINGER and failed to warn individuals at the  
18 premises of LASTINGER's propensity to engage in this behavior. Further, Defendants  
19 STANFORD HEALTH CARE and DOES 1 through 10, and each of them, failed to suspend,  
20 report, or fire LASTINGER upon initially hearing about this disturbing behavior in the days,  
21 weeks, months, and years prior to March 31, 2015. Based on their prior knowledge of  
22 LASTINGER's conduct and propensities, STANFORD HEALTH CARE and DOES 1 through 10,  
23 and each of them, ratified, authorized, and/or condoned the conduct of LASTINGER.  
24  
25  
26  
27  
28

1           12.     STANFORD HEALTH CARE employees witnessed many of the aforementioned  
2 acts of lewd, lascivious, and abusive conduct on the part of LASTINGER towards anesthetized  
3 patients and had actual notice prior to the abuse of Plaintiff on March 31, 2015 of his proclivities to  
4 engage in said conduct. Specifically, employees on multiple levels, including officers, managers,  
5 and managing agents of STANFORD HEALTH CARE and DOES 1 to 25, and each of them, had  
6 notice of the following: LASTINGER had engaged in lewd conduct with a nurse in 2013;  
7 LASTINGER had a reputation for sexually abusing sedated patients; one nurse conveyed to a  
8 colleague that she should “be careful because LASTINGER was gay and has been known to touch  
9 the genitals of co-workers”; another nurse indicated that it was well known that LASTINGER  
10 “liked to fiddle with male patients’ penises”; another nurse reported to his supervisor that  
11 LASTINGER had used his bare hands to remove adhesive from a grounding plate and that he “left  
12 his hand near the patient’s groin area for too long”; one or more nurses witnessed LASTINGER  
13 sexually abuse another anesthetized patient on March 20, 2015, and texted and had conversations  
14 with colleagues about witnessing the same, yet failed to contact law enforcement and/or any other  
15 appropriate administrative agency out of fear that STANFORD HEALTH CARE and DOES 1 to  
16 10, and each of them, would retaliate against them because LASTINGER was a protected  
17 employee.  
18

19  
20           13.     On or about March 31, 2015, Plaintiff underwent a procedure at the Stanford  
21 medical facility located at 450 Broadway Street in the City of Redwood City, County of San Mateo,  
22 State of California. LASTINGER was a staff member working at the Stanford medical facility on  
23 March 31, 2015.  
24

25           14.     On or about March 31, 2015, LASTINGER used his position as an employee of  
26 Defendants STANFORD HEALTH CARE and DOES 1 through 10, and each of them, with access  
27 to individuals at the premises before, during, and after surgeries, in their most vulnerable states, to  
28

1 engage in unlawful sexual battery of Plaintiff, among other tortious conduct, resulting in injuries  
2 and damages. This behavior was witnessed by others in the surgical theater.

3 15. Prior to March 31, 2015, STANFORD HEALTH CARE, and DOES 1 through 25,  
4 and each of them, had advance knowledge of LASTINGER'S unfitness and nonetheless employed  
5 him with a conscious disregard of the rights and safety of others, including Plaintiff, and further  
6 authorized, condoned, and ratified his sexually abusive behavior. This advance knowledge of  
7  
8 LASTINGER'S unfitness and decision to nonetheless continue to employ him in conscious  
9 disregard of the rights and safety of others, including Plaintiff, and the authorization, condoning,  
10 and ratification of LASTINGER'S conduct was undertaken by STANFORD HEALTH CARE  
11 personnel on multiple levels, including by officers, managers, and managing agents.

12 **JURISDICTION AND VENUE**

13  
14 16. Venue is proper in the County of San Mateo under California Code of Civil  
15 Procedure §395, subd. (a), on the basis that the injury that is the subject of this Complaint for  
16 Damages occurred in the City of Redwood City, County of San Mateo, State of California.

17 **FIRST CAUSE OF ACTION**

18 **(Negligence – As Against All Defendants)**

19 17. Plaintiff hereby re-alleges and incorporates herein by reference each and every  
20 allegation contained in Paragraphs 1 through 13 of this Complaint as though fully set forth herein.

21  
22 18. Defendants, and each of them, had a duty to protect Plaintiff as an individual at a  
23 Stanford facility.

24 19. Defendants, and each of them, knew or should have known of LASTINGER's  
25 propensity to engage in inappropriate sexual contact with individuals at the premises and/or that he  
26 was an unfit agent. It was reasonably foreseeable that if Defendants breached their duty of care  
27  
28

1 owed to individuals at the premises, including but not limited to Plaintiff, these individuals would  
2 be vulnerable to assaultive conduct and sexual battery by LASTINGER.

3         20. Defendants, and each of them, breached their duty of care owed to Plaintiff by:  
4 failing to adequately hire, supervise, retain, and control LASTINGER, whom they permitted to  
5 have access to Plaintiff and other individuals at the premises; failing to adequately and competently  
6 investigate LASTINGER once complaints had been made; failing to alert law enforcement that  
7 LASTINGER may have been sexually battering individuals at the premises; failing to adequately  
8 and competently investigate LASTINGER given that past complaints had been made against him;  
9 failing to discharge their duties as mandatory reporters pursuant to California Penal Code Sections  
10 11160, 11161, 11166, and Welfare and Institutions Code Sections 15610 and 15630; failing to warn  
11 of LASTINGER's assaultive, dangerous, and sexually exploitative propensities after Defendants  
12 knew or had reason to know that LASTINGER had engaged in inappropriate sexual contact with  
13 individuals at the premises in the days, weeks, months, and years prior to March 31, 2015; and  
14 creating a toxic environment and intimidating atmosphere whereby LASTINGER'S abusive and  
15 assaultive conduct was ratified, condoned, and authorized, thereby enabling Plaintiff to be sexually  
16 battered by LASTINGER.  
17

18  
19         21. As a direct, legal, and proximate result of the negligence, willfulness, intent,  
20 carelessness, and recklessness of Defendants STANFORD HEALTH CARE and DOES 1 through  
21 25, and each of them, Plaintiff was injured in his strength, health, and activity, sustaining shock and  
22 injury to his nervous system, all of which have caused, and will continue to cause Plaintiff great  
23 mental pain, embarrassment, humiliation, distress, anguish and suffering, all to his damage in an  
24 amount to be proven at the time of trial of this action.  
25

26         22. As a further direct, legal, and proximate result of the negligence, willfulness, intent,  
27 carelessness, and recklessness of Defendants STANFORD HEALTH CARE and DOES 1 through  
28

1 25, and each of them, Plaintiff will be required to obtain the services of physicians and  
2 psychologists, obtain treatment and care, and incur medical and incidental expenses in an amount to  
3 be proven at the time of trial of this action.

4 **SECOND CAUSE OF ACTION**

5 **(Negligent Hiring/Retention – As Against Defendant STANFORD HEALTH CARE and**  
6 **DOES 1 through 10)**

7 23. Plaintiff hereby re-alleges and incorporates herein by reference each and every  
8 allegation contained in Paragraphs 1 through 22 of this Complaint as though fully set forth herein.

9 24. Defendants STANFORD HEALTH CARE and DOES 1 through 10, and each of  
10 them, had a duty not to hire and/or retain LASTINGER given: his involvement in the diversion and  
11 theft of prescription medication prior to March 31, 2015; his prior tenure at Stanford from 1996-  
12 2000 resulting in his forced resignation; and his propensity to engage in inappropriate sexual  
13 conduct with individuals at the premises prior to, during, and/or after surgical procedures at  
14 Stanford.

15 25. Defendants STANFORD HEALTH CARE and DOES 1 through 10, and each of  
16 them, knew or should have known of LASTINGER's propensity to engage in inappropriate sexual  
17 contact with individuals at the premises and/or that he was an unfit agent, and knew that  
18 LASTINGER's unfitness created a particular risk to others.

19 26. LASTINGER's unfitness resulted in harm to Plaintiff on or around March 31, 2015,  
20 when LASTINGER used his position as an employee of Defendants STANFORD HEALTH CARE  
21 and DOES 1 through 10, and each of them, with access to individuals at the premises before,  
22 during, and after surgeries, in their most vulnerable states, to engage in unlawful sexual battery of  
23 Plaintiff, among other tortious conduct, resulting in injuries and damages.

24 27. As a direct, legal, and proximate result of the negligence, willfulness, intent,  
25 carelessness, and recklessness of Defendants STANFORD HEALTH CARE and DOES 1 through  
26



1 10, and each of them, Plaintiff was injured in his strength, health, and activity, sustaining shock and  
2 injury to his nervous system, all of which have caused, and will continue to cause Plaintiff great  
3 mental pain, embarrassment, humiliation, distress, anguish and suffering, all to his damage in an  
4 amount to be proven at the time of trial of this action.

5  
6 28. As a further direct, legal, and proximate result of the negligence, willfulness, intent,  
7 carelessness, and recklessness of Defendants STANFORD HEALTH CARE and DOES 1 through  
8 10, and each of them, Plaintiff will be required to obtain the services of physicians and  
9 psychologists, obtain treatment and care, and incur medical and incidental expenses in an amount to  
10 be proven at the time of trial of this action.

11 **THIRD CAUSE OF ACTION**

12 **(Negligent Supervision/Failure to Warn – As Against Defendant STANFORD HEALTH**  
13 **CARE and DOES 1 through 10)**

14 29. Plaintiff hereby re-alleges and incorporates herein by reference each and every  
15 allegation contained in Paragraphs 1 through 28 of this Complaint as though fully set forth herein.

16  
17 30. Defendants STANFORD HEALTH CARE and DOES 1 through 10, and each of  
18 them, had duty to: provide adequate supervision of LASTINGER; use reasonable care in  
19 investigating complaints of inappropriate behavior by LASTINGER; take appropriate adverse  
20 employment actions against LASTINGER as a result of his tortious conduct; provide adequate  
21 supervision and protection to individuals at the premises with whom Defendants STANFORD  
22 HEALTH CARE and DOES 1 through 10, and each of them, allowed LASTINGER to have  
23 contact; provide adequate warnings to the Plaintiff, and other individuals at the premises, of  
24 LASTINGER's unfitness, troubling and abnormal behavior, dangerous propensities, and  
25 proclivities to engage in the sexual battery of individuals at the Stanford facility.

26  
27 31. Defendants STANFORD HEALTH CARE and DOES 1 through 10, and each of  
28 them, knew or should have known of LASTINGER's dangerous, and exploitative propensities, that

1 he was an unfit agent, and of his proclivities to have inappropriate sexual contact with individuals  
2 at the premises. It was reasonably foreseeable that if Defendants breached the duty of care owed to  
3 individuals at the premises, including but not limited to Plaintiff, the individuals at the premises  
4 would be vulnerable to sexual battery by LASTINGER.  
5

6 32. Despite receiving actual and constructive notice of LASTINGER's propensities to  
7 engage in inappropriate sexual conduct with individuals at the premises prior to March 31, 2015,  
8 Defendants STANFORD HEALTH CARE and DOES 1 through 10, and each of them, negligently  
9 failed to supervise LASTINGER, thereby allowing him the ability and opportunity to commit  
10 wrongful acts against Plaintiff. Defendants STANFORD HEALTH CARE and DOES 1 through  
11 25, and each of them, further failed to: adequately and competently investigate LASTINGER; take  
12 any adverse employment actions against LASTINGER upon learning of his tortious conduct; warn  
13 individuals at the premises about LASTINGER's propensities; discharge their duties as mandatory  
14 reporters after witnessing LASTINGER engage in sexual abuse of dependent adults under  
15 anesthesia; alert law and enforcement or authorities that LASTINGER had been sexually battering  
16 individuals at the premises after Defendants STANFORD HEALTH CARE and DOES 1 through  
17 25, and each of them, knew or had reason to know of his inappropriate conduct; take adequate  
18 measures to prevent future sexual battery of individuals at the premises, including that which was  
19 perpetrated upon Plaintiff.  
20  
21

22 33. As a direct, legal, and proximate result of the negligence, willfulness, intent,  
23 carelessness, and recklessness of Defendants STANFORD HEALTH CARE and DOES 1 through  
24 10, and each of them, Plaintiff was injured in his strength, health, and activity, sustaining shock and  
25 injury to his nervous system, all of which have caused, and will continue to cause Plaintiff great  
26 mental pain, embarrassment, humiliation, distress, anguish and suffering, all to his damage in an  
27 amount to be proven at the time of trial of this action.  
28



1 10, and each of them, allowed a toxic environment and atmosphere of intimidation that stymied  
2 and/or precluded its employees from discharging their duties as mandatory reporters after  
3 witnessing LASTINGER engage in sexually abusive conduct of both anesthetized dependent adults  
4 and minors. As a result of this toxic employment environment full of harassment, intimidation, and  
5 retaliation against employees who complained of LASTINGER'S conduct, the premises was in a  
6 dangerous condition at the time of the conduct perpetrated upon Plaintiff, and said dangerous  
7 condition was a direct, legal, and proximate cause of Plaintiff's injury and created a reasonably  
8 foreseeable risk of the type of injury Plaintiff sustained. Defendants STANFORD HEALTH  
9 CARE and DOES 1 through 10, and each of them, had actual and/or constructive notice of the  
10 dangerous condition for a sufficient time prior to Plaintiff's injury to take measures to protect  
11 Plaintiff and others against the dangerous condition.  
12

13  
14 39. By negligently, willfully, intentionally, carelessly, and recklessly creating such a  
15 toxic environment and atmosphere of intimidation, and owning, operating, maintaining,  
16 monitoring, inspecting, supervising, instructing, controlling, managing, possessing, and designing  
17 the premises and allowing such a dangerous condition to exist on its premises without taking  
18 appropriate and adequate measures to discipline and terminate LASTINGER, allow its employees  
19 to report his conduct, and protect individuals at the premises, including Plaintiff, from a substantial  
20 risk of injury, Defendants STANFORD HEALTH CARE and DOES 1 through 10, and each of  
21 them, failed to conform to the standard of care required of them.  
22

23 40. As a direct, legal, and proximate result of the negligence, willfulness, intent,  
24 carelessness, and recklessness of Defendants STANFORD HEALTH CARE and DOES 1 through  
25 10, and each of them, Plaintiff was injured in his strength, health, and activity, sustaining shock and  
26 injury to his nervous system, all of which have caused, and will continue to cause Plaintiff great  
27  
28

1 mental pain, embarrassment, humiliation, distress, anguish and suffering, all to his damage in an  
2 amount to be proven at the time of trial of this action.

3 41. As a further direct, legal, and proximate result of the negligence, willfulness, intent,  
4 carelessness, and recklessness of Defendants STANFORD HEALTH CARE and DOES 1 through  
5 10, and each of them, Plaintiff will be required to obtain the services of physicians and  
6 psychologists, obtain treatment and care, and incur medical and incidental expenses in an amount to  
7 be proven at the time of trial of this action.

8  
9 **FIFTH CAUSE OF ACTION**

10 **(Battery – As Against All Defendants)**

11 42. Plaintiff hereby re-alleges and incorporates herein by reference each and every  
12 allegation contained in Paragraphs 1 through 41 of this Complaint as though fully set forth herein.

13 43. On or about March 20, 2015, Defendants LASTINGER and DOES 11 through 20,  
14 and each of them, used their position as employees of Defendants STANFORD HEALTH CARE  
15 and DOES 1 through 10, and each of them, at the premises to intentionally engage in unpermitted,  
16 harmful, offensive, and unlawful sexual contact and battery upon the person of Plaintiff.

17 44. Plaintiff did not consent to these acts of battery.

18 45. As set forth in greater detail above, Defendants STANFORD HEALTH CARE and  
19 DOES 1 through 25, and each of them had actual knowledge of the fact that LASTINGER had  
20 sexually battered anesthetized patients prior to Plaintiff, and failed to discipline or terminate him  
21 for this conduct. As such, STANFORD HEALTH CARE and DOES 1 through 10, and each of  
22 them authorized, condoned, and ratified such behavior, making them liable under a theory of  
23 *respondeat superior*.

24 46. As a direct, legal, and proximate cause of the conduct of Defendants, and each of  
25 them, as herein alleged above, Plaintiff was injured in his strength, health, and activity, sustaining  
26  
27  
28

1 shock and injury to his nervous system, all of which have caused, and will continue to cause  
2 Plaintiff great mental pain, embarrassment, humiliation, distress, anguish and suffering, all to his  
3 damage in an amount to be proven at the time of trial of this action.

4 47. As a further direct, legal, and proximate result of the conduct of Defendants, and  
5 each of them, as herein alleged above, Plaintiff will be required to obtain the services of physicians  
6 and psychologists, obtain treatment and care, and incur medical and incidental expenses in an  
7 amount to be proven at the time of trial of this action.

8 48. The acts of Defendants, and each of them, alleged above were done maliciously,  
9 oppressively, and/or fraudulently, entitling Plaintiff to recover punitive damages in an amount to be  
10 proven at the time of trial of this action.

11  
12 **SIXTH CAUSE OF ACTION**

13 **(Sexual Battery – As Against Defendants)**

14 49. Plaintiff hereby re-alleges and incorporates herein by reference each and every  
15 allegation contained in Paragraphs 1 through 48 of this Complaint as though fully set forth herein.

16 50. On or about March 31, 2015, Defendants LASTINGER and DOES 11 through 20,  
17 and each of them, used their position as employees of Defendants STANFORD HEALTH CARE  
18 and DOES 1 through 10, and each of them, at the premises to intentionally engage in unpermitted,  
19 harmful, offensive, and unlawful sexual contact and battery upon the person of Plaintiff, who was a  
20 16-year-old minor at the time.

21 51. Plaintiff did not consent to these acts of sexual battery.

22 52. Defendants LASTINGER and DOES 11 through 20's conduct against Plaintiff  
23 constitutes sexual battery within the meaning of California Civil Code Section 1708.5 and Penal  
24 Code Section 243.4(b), and resulted in significant injuries and damages to Plaintiff.  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

53. The acts of sexual battery willfully committed by Defendants LASTINGER and DOES 11 through 20 upon Plaintiff included, but are not limited to: touching Plaintiff's genitalia while Plaintiff was still anaesthetized prior to, during, and/or following surgery.

54. As set forth in greater detail above, Defendants STANFORD HEALTH CARE and DOES 1 through 25, and each of them had actual knowledge of the fact that LASTINGER had sexually battered anesthetized patients prior to Plaintiff, and failed to discipline or terminate him for this conduct. As such, STANFORD HEALTH CARE and DOES 1 through 25, and each of them by and through its officers, managers, and managing agents, authorized, condoned, and ratified the inappropriate acts of sexual abuse perpetrated by LASTINGER and DOES 11 through 25, making them liable under a theory of *respondeat superior*.

55. As a direct, legal, and proximate result of the conduct of Defendants, and each of them, as herein alleged above, Plaintiff was injured in his strength, health, and activity, sustaining shock and injury to his nervous system, all of which have caused, and will continue to cause Plaintiff great mental pain, embarrassment, humiliation, distress, anguish and suffering, all to his damage in an amount to be proven at the time of trial of this action.

56. As a further direct, legal, and proximate result of the conduct of Defendants, and each of them, as herein alleged above, Plaintiff will be required to obtain the services of physicians and psychologists, obtain treatment and care, and incur medical and incidental expenses in an amount to be proven at the time of trial of this action.

57. The acts of Defendants, and each of them, alleged above were done maliciously, oppressively, and/or fraudulently, entitling Plaintiff to recover punitive damages in an amount to be proven at the time of trial of this action.

//  
//

1 **SEVENTH CAUSE OF ACTION**

2 **(Childhood Sexual Abuse – As Against All Defendants)**

3 58. Plaintiff hereby re-alleges and incorporates herein by reference each and every  
4 allegation contained in Paragraphs 1 through 57 of this Complaint as though fully set forth herein.

5 59. On or about March 31, 2015, Defendants LASTINGER and DOES 11 through 20,  
6 and each of them, used their positions as employees of STANFORD HEALTH CARE and DOES 1  
7 through 10, and each of them, at the premises to engage in unpermitted, harmful, offensive, and  
8 unlawful sexual contact upon the person of Plaintiff. Plaintiff was sixteen-years-old at the time of  
9 said despicable acts. These acts perpetrated upon Plaintiff constitute childhood sexual abuse and  
10 were committed in violation of California Penal Code Sections 647.6 and 243.4(b), and resulted in  
11 significant injuries and damages.

12 60. Plaintiff did not consent to these acts of childhood sexual abuse.

13 61. The acts of childhood sexual abuse willfully committed by Defendants  
14 LASTINGER and DOES 11 through 25 upon Plaintiff included, but are not limited to: touching  
15 Plaintiff's genitalia while Plaintiff was still anaesthetized prior to, during, and/or following surgery.

16 62. As set forth in greater detail above, Defendants STANFORD HEALTH CARE and  
17 DOES 1 through 25, and each of them had actual knowledge of the fact that LASTINGER had  
18 sexually battered anesthetized patients prior to Plaintiff, and failed to discipline or terminate him  
19 for this conduct. As such, STANFORD HEALTH CARE and DOES 1 through 25, and each of  
20 them by and through its officers, managers, and managing agents, authorized, condoned, and  
21 ratified the inappropriate acts of sexual abuse perpetrated by LASTINGER and DOES 1 through  
22 25, making them liable under a theory of *respondeat superior*.

23 63. As a direct, legal, and proximate result of the conduct of Defendants, and each of  
24 them, as herein alleged above, Plaintiff was injured in his strength, health, and activity, sustaining  
25



1 shock and injury to his nervous system, all of which have caused, and will continue to cause  
2 Plaintiff great mental pain, embarrassment, humiliation, distress, anguish and suffering, all to his  
3 damage in an amount to be proven at the time of trial of this action.

4           64. As a further direct, legal, and proximate result of the conduct of Defendants, and  
5 each of them, as herein alleged above, Plaintiff will be required to obtain the services of physicians  
6 and psychologists, obtain treatment and care, and incur medical and incidental expenses in an  
7 amount to be proven at the time of trial of this action.

8           65. The acts of Defendants, and each of them, alleged above were done maliciously,  
9 oppressively, and/or fraudulently, entitling Plaintiff to recover punitive damages in an amount to be  
10 proven at the time of trial of this action.  
11

12  
13   **EIGHTH CAUSE OF ACTION**

14                                   **(Intentional Infliction of Emotional Distress – As Against All Defendants)**

15           66. Plaintiff hereby re-alleges and incorporates herein by reference each and every  
16 allegation contained in Paragraphs 1 through 65 of this Complaint as though fully set forth herein.

17           67. The conduct of Defendants LASTINGER and DOES 11 through 20, and each of  
18 them, as herein alleged was intentional, extreme, outrageous, malicious, and committed for the  
19 purpose of causing Plaintiff to suffer humiliation, mental anguish, and severe emotional distress.  
20

21           68. As set forth in greater detail above, Defendants STANFORD HEALTH CARE and  
22 DOES 1 through 25, and each of them had actual knowledge of the fact that LASTINGER had  
23 sexually battered anesthetized patients prior to Plaintiff, and failed to discipline or terminate him  
24 for this conduct. As such, STANFORD HEALTH CARE and DOES 1 through 25, and each of  
25 them by and through its officers, managers, and managing agents, authorized, condoned, and  
26  
27  
28

1 ratified the inappropriate acts of sexual abuse perpetrated by LASTINGER and DOES 11 through  
2 25, making them liable under a theory of *respondeat superior*.

3           69. As a direct, legal, and proximate result of the conduct of Defendants, and each of  
4 them, as herein alleged above, Plaintiff was injured in his strength, health, and activity, sustaining  
5 shock and injury to his nervous system, all of which have caused, and will continue to cause  
6 Plaintiff great mental pain, embarrassment, humiliation, distress, anguish, emotional distress, and  
7 suffering, all to his damage in an amount to be proven at the time of trial of this action.

8           70. As a further direct, legal, and proximate result of the Defendants' conduct as herein  
9 alleged above, Plaintiff will be required to obtain the services of physicians and psychologists,  
10 obtain treatment and care, and incur medical and incidental expenses in an amount to be proven at  
11 the time of trial of this action.

12           71. The acts of Defendants as alleged above were done maliciously, oppressively,  
13 and/or fraudulently, entitling Plaintiff to recover punitive damages in an amount to be proven at the  
14 time of trial of this action.

15  
16  
17 **NINTH CAUSE OF ACTION**

18 **(Negligence Per Se – As Against All Defendants)**

19           72. Plaintiff hereby re-alleges and incorporates herein by reference each and every  
20 allegation contained in Paragraphs 1 through 71 of this Complaint as though fully set forth herein.

21           73. DOES 11-25, and each of them, were hired, trained, retained, supervised, and held  
22 out to be employees of Defendants STANFORD HEALTH CARE and DOES 1-10, and each of  
23 them, and at all relevant times herein, were acting within the course and scope of their employment.  
24 DOES 11-25, and each of them, were mandatory reporters as health care practitioners within the  
25 meaning of California Penal Code Sections 11160, 11161, 11166, and Welfare and Institutions  
26 Code Sections 15610, and 15630.  
27  
28

1           74.    Prior to the unlawful sexual abuse and sexual battery perpetrated upon Plaintiff on  
2 March 31, 2015, several nurses, patient care coordinators, physicians, supervisors, anesthesia  
3 technicians, and scrub technicians, all within the course and scope of their employment at  
4 STANFORD HEALTH CARE and DOES 1-10, and each of them, received actual notice of  
5 LASTINGER'S proclivity to engage in inappropriate sexual contact with anesthetized patients after  
6 witnessing LASTINGER engage in this assaultive and sexually abusive behavior with other  
7 patients in the surgical theater, including, but not limited to, witnessing an incident on March 20,  
8 2015.

9  
10           75.    Despite witnessing this conduct and receiving this actual notice of LASTINGER'S  
11 proclivity to engage in this sexually abusive behavior of dependent adults and minor who were  
12 under anesthesia at the time of the abuse, these nurses, patient care coordinators, physicians,  
13 supervisors, anesthesia technicians, and scrub technicians, all within the course and scope of their  
14 employment at STANFORD HEALTH CARE and DOES 1-10, and each of them, failed to contact  
15 law enforcement or the California Department of Social Services or any other administrative  
16 agency.

17  
18           76.    Pursuant to California Penal Code Sections 11160, 11161, 11166, and Welfare and  
19 Institutions Code Sections 15610 and 15630, Defendants DOES 11-25, and each of them, had a  
20 duty to immediately report the abuse to law enforcement and/or the appropriate state administrative  
21 agency. Plaintiff was within the class of persons to be protected by the aforementioned Penal Code  
22 and Welfare and Institutions Code Sections.

23  
24           77.    STANFORD HEALTH CARE and DOES 1-25, and each of them, breached their  
25 duties to notify law enforcement and the appropriate state administrative agencies in violation of  
26 their mandatory duties under California Penal Code Sections 11160, 11161, 11166, and Welfare  
27 and Institutions Code Sections 15610 and 15630.

28

1           78.     As a direct, legal, and proximate result of the conduct of Defendants STANFORD  
2 HEALTH CARE and DOES 1 through 25, and each of them, as herein alleged above, Plaintiff was  
3 injured in his strength, health, and activity, sustaining shock and injury to his nervous system, all of  
4 which have caused, and will continue to cause Plaintiff great mental pain, embarrassment,  
5 humiliation, distress, anguish and suffering, all to his damage in an amount to be proven at the time  
6 of trial of this action.

7  
8           79.     As a further direct, legal, and proximate result of the conduct of Defendants  
9 STANFORD HEALTH CARE and DOES 1 through 25, and each of them, as herein alleged above,  
10 Plaintiff will be required to obtain the services of physicians and psychologists, obtain treatment  
11 and care, and incur medical and incidental expenses in an amount to be proven at the time of trial of  
12 this action.

13  
14           80.     The acts of Defendants STANFORD HEALTH CARE and DOES 1 through 25, and  
15 each of them, alleged above were done maliciously, oppressively, and/or fraudulently, entitling  
16 Plaintiff to recover punitive damages in an amount to be proven at the time of trial of this action.

17                           **PRAYER FOR RELIEF**

18           WHEREFORE, Plaintiff prays for judgment as follows:

- 19           A.     For general (non-economic) damages according to proof;
- 20           B.     For special (economic) damages according to proof;
- 21           C.     For exemplary (punitive) damages according to proof;
- 22           D.     For prejudgment interest as permitted by law;
- 23           E.     For costs of suit herein;
- 24           F.     For such other and further relief as the Court may deem just and proper.
- 25           G.     For attorneys' fees pursuant to Civil Procedure Code Sections 1021.4 and 1021.5,  
26                 and Welfare and Institutions Code Section 15657.
- 27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**DEMAND FOR JURY TRIAL**

Plaintiff demands a trial by jury on all issues so triable.

Dated: September 26, 2016

**MATIASIC & JOHNSON LLP**

By: 

Paul A. Matiasic  
Hannah E. Mohr  
Attorneys for Plaintiff  
ROBERT DOE

Matiasic & Johnson LLP  
44 Montgomery St., Suite 3850  
San Francisco, CA 94104