

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

NOV - 7 2016

Clerk of the Superior Court

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

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6 ROBERT DOE

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

10 ROBERT DOE,

11 Plaintiff,

12 vs.

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

15 Defendants.

) CASE NO. 16-CIV-01627

) **FIRST AMENDED COMPLAINT FOR**  
) **DAMAGES**

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

) DEMAND FOR JURY TRIAL

BY FAX

19  
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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.

16 - CIV - 01627  
ACM  
Amended Complaint  
247351



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

2/13  
Cmc

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, managers, 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  
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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.

7  
8 6. Plaintiff is unaware of the true names and capacities of Defendants sued in this First  
9 Amended Complaint as DOES 1 through 25, inclusive, and therefore sues these Defendants by such  
10 fictitious names. As appropriate, Plaintiff will amend this First Amended Complaint to allege their  
11 true names and capacities when ascertained.

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

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

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

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

14  
15 11. Despite the fact that LASTINGER engaged in prior conduct that would have  
16 provided notice to a reasonably prudent person of his propensity to engage in inappropriate sexual  
17 contact with individuals at the premises, of which his superiors at Defendants STANFORD  
18 HEALTH CARE and DOES 1 through 10, and each of them, were aware, his superiors negligently  
19 hired, referred, retained, and supervised LASTINGER and failed to warn individuals at the  
20 premises of LASTINGER's propensity to engage in this behavior. Further, Defendants  
21 STANFORD HEALTH CARE and DOES 1 through 10, and each of them, failed to suspend,  
22 report, or fire LASTINGER upon initially hearing about this disturbing behavior in the days,  
23 weeks, months, and years prior to March 31, 2015. Based on their prior knowledge of  
24 LASTINGER's conduct and propensities, STANFORD HEALTH CARE and DOES 1 through 10,  
25 and each of them, ratified, authorized, and/or condoned the conduct of LASTINGER.  
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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.  
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21           13.     On or about March 31, 2015, Plaintiff underwent a procedure at the Stanford  
22 medical facility located at 450 Broadway Street in the City of Redwood City, County of San Mateo,  
23 State of California. LASTINGER was a staff member working at the Stanford medical facility on  
24 March 31, 2015.

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  
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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 LASTINGER'S unfitness and decision to nonetheless continue to employ him in conscious  
8 disregard of the rights and safety of others, including Plaintiff, and the authorization, condoning,  
9 and ratification of LASTINGER'S conduct was undertaken by STANFORD HEALTH CARE  
10 personnel on multiple levels, including by officers, managers, and managing agents.  
11

12 **JURISDICTION AND VENUE**

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

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 First Amended Complaint as though fully  
21 set forth herein.  
22

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

25 19. Defendants, and each of them, knew or should have known of LASTINGER's  
26 propensity to engage in inappropriate sexual contact with individuals at the premises and/or that he  
27 was an unfit agent. It was reasonably foreseeable that if Defendants breached their duty of care  
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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  
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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 First Amended Complaint as though fully  
9 set forth herein.

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

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

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

3 31. Defendants STANFORD HEALTH CARE and DOES 1 through 10, and each of  
4 them, knew or should have known of LASTINGER's dangerous, and exploitative propensities, that  
5 he was an unfit agent, and of his proclivities to have inappropriate sexual contact with individuals  
6 at the premises. It was reasonably foreseeable that if Defendants breached the duty of care owed to  
7 individuals at the premises, including but not limited to Plaintiff, the individuals at the premises  
8 would be vulnerable to sexual battery by LASTINGER.

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

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26 33. As a direct, legal, and proximate result of the negligence, willfulness, intent,  
27 carelessness, and recklessness of Defendants STANFORD HEALTH CARE and DOES 1 through  
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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 34. 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 **FOURTH CAUSE OF ACTION**

12 **(Premises Liability – As Against Defendant STANFORD HEALTH CARE and DOES 1**  
13 **through 10)**

14 35. Plaintiff hereby re-alleges and incorporates herein by reference each and every  
15 allegation contained in Paragraphs 1 through 34 of this First Amended Complaint as though fully  
16 set forth herein.

17  
18 36. On or about March 31, 2015, while lawfully on the Stanford medical facility  
19 premises located at 450 Broadway Street, Redwood City, CA, Plaintiff was sexually battered on the  
20 premises by LASTINGER, an employee and/or agent of Defendants STANFORD HEALTH CARE  
21 and DOES 1 through 10, resulting in injuries and damages. LASTINGER engaged in this conduct  
22 while Plaintiff was sedated, in or around the surgical theater wherein Plaintiff was undergoing or  
23 had just undergone surgery.

24  
25 37. Said premises was owned, operated, maintained, monitored, inspected, supervised,  
26 instructed, controlled, managed, possessed, and designed by Defendants STANFORD HEALTH  
27 CARE and DOES 1 through 10, and each of them.

28

1           38. Defendants STANFORD HEALTH CARE and DOES 1 through 10, and each of  
2 them, failed to provide adequate safeguards against the known danger of LASTINGER engaging in  
3 inappropriate conduct with individuals at the premises before, during, and after surgeries, failing to  
4 properly supervise LASTINGER and other staff members at all times, and failing to develop,  
5 implement, and enforce rules and regulations necessary to ensure the safety of all persons lawfully  
6 on the Stanford facility premises. In addition, STANFORD HEALTH CARE and DOES 1 through  
7 10, and each of them, allowed a toxic environment and atmosphere of intimidation that stymied  
8 and/or precluded its employees from discharging their duties as mandatory reporters after  
9 witnessing LASTINGER engage in sexually abusive conduct of both anesthetized dependent adults  
10 and minors. As a result of this toxic employment environment full of harassment, intimidation, and  
11 retaliation against employees who complained of LASTINGER'S conduct, the premises was in a  
12 dangerous condition at the time of the conduct perpetrated upon Plaintiff, and said dangerous  
13 condition was a direct, legal, and proximate cause of Plaintiff's injury and created a reasonably  
14 foreseeable risk of the type of injury Plaintiff sustained. Defendants STANFORD HEALTH  
15 CARE and DOES 1 through 10, and each of them, had actual and/or constructive notice of the  
16 dangerous condition for a sufficient time prior to Plaintiff's injury to take measures to protect  
17 Plaintiff and others against the dangerous condition.  
18  
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20           39. By negligently, willfully, intentionally, carelessly, and recklessly creating such a  
21 toxic environment and atmosphere of intimidation, and owning, operating, maintaining,  
22 monitoring, inspecting, supervising, instructing, controlling, managing, possessing, and designing  
23 the premises and allowing such a dangerous condition to exist on its premises without taking  
24 appropriate and adequate measures to discipline and terminate LASTINGER, allow its employees  
25 to report his conduct, and protect individuals at the premises, including Plaintiff, from a substantial  
26  
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1 risk of injury, Defendants STANFORD HEALTH CARE and DOES 1 through 10, and each of  
2 them, failed to conform to the standard of care required of them.

3 40. As a 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 was injured in his strength, health, and activity, sustaining shock and  
6 injury to his nervous system, all of which have caused, and will continue to cause Plaintiff great  
7 mental pain, embarrassment, humiliation, distress, anguish and suffering, all to his damage in an  
8 amount to be proven at the time of trial of this action.

9  
10 41. As a further direct, legal, and proximate result of the negligence, willfulness, intent,  
11 carelessness, and recklessness of Defendants STANFORD HEALTH CARE and DOES 1 through  
12 10, and each of them, Plaintiff will be required to obtain the services of physicians and  
13 psychologists, obtain treatment and care, and incur medical and incidental expenses in an amount to  
14 be proven at the time of trial of this action.

15  
16 **FIFTH CAUSE OF ACTION**

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

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

21  
22 43. On or about March 20, 2015, Defendants LASTINGER and DOES 11 through 20,  
23 and each of them, used their position as employees of Defendants STANFORD HEALTH CARE  
24 and DOES 1 through 10, and each of them, at the premises to intentionally engage in unpermitted,  
25 harmful, offensive, and unlawful sexual contact and battery upon the person of Plaintiff.

26 44. Plaintiff did not consent to these acts of battery.  
27  
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1           45.    As set forth in greater detail above, Defendants STANFORD HEALTH CARE and  
2 DOES 1 through 25, and each of them had actual knowledge of the fact that LASTINGER had  
3 sexually battered anesthetized patients prior to Plaintiff, and failed to discipline or terminate him  
4 for this conduct. As such, STANFORD HEALTH CARE and DOES 1 through 10, and each of  
5 them authorized, condoned, and ratified such behavior, making them liable under a theory of  
6 *respondeat superior*.  
7

8           46.    As a direct, legal, and proximate cause of the conduct of Defendants, and each of  
9 them, as herein alleged above, Plaintiff was injured in his strength, health, and activity, sustaining  
10 shock and injury to his nervous system, all of which have caused, and will continue to cause  
11 Plaintiff great mental pain, embarrassment, humiliation, distress, anguish and suffering, all to his  
12 damage in an amount to be proven at the time of trial of this action.  
13

14           47.    As a further direct, legal, and proximate result of the conduct of Defendants, and  
15 each of them, as herein alleged above, Plaintiff will be required to obtain the services of physicians  
16 and psychologists, obtain treatment and care, and incur medical and incidental expenses in an  
17 amount to be proven at the time of trial of this action.  
18

19           48.    The acts of Defendants, and each of them, alleged above were done maliciously,  
20 oppressively, and/or fraudulently, entitling Plaintiff to recover punitive damages in an amount to be  
21 proven at the time of trial of this action.  
22

**SIXTH CAUSE OF ACTION**

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

23           49.    Plaintiff hereby re-alleges and incorporates herein by reference each and every  
24 allegation contained in Paragraphs 1 through 48 of this First Amended Complaint as though fully  
25 set forth herein.  
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1           50.    On or about March 31, 2015, Defendants LASTINGER and DOES 11 through 20,  
2 and each of them, used their position as employees of Defendants STANFORD HEALTH CARE  
3 and DOES 1 through 10, and each of them, at the premises to intentionally engage in unpermitted,  
4 harmful, offensive, and unlawful sexual contact and battery upon the person of Plaintiff, who was a  
5 16-year-old minor at the time.  
6

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

8           52.    Defendants LASTINGER and DOES 11 through 20's conduct against Plaintiff  
9 constitutes sexual battery within the meaning of California Civil Code Section 1708.5 and Penal  
10 Code Section 243.4(b), and resulted in significant injuries and damages to Plaintiff.  
11

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

15           54.    As set forth in greater detail above, Defendants STANFORD HEALTH CARE and  
16 DOES 1 through 25, and each of them had actual knowledge of the fact that LASTINGER had  
17 sexually battered anesthetized patients prior to Plaintiff, and failed to discipline or terminate him  
18 for this conduct. As such, STANFORD HEALTH CARE and DOES 1 through 25, and each of  
19 them by and through its officers, managers, and managing agents, authorized, condoned, and  
20 ratified the inappropriate acts of sexual abuse perpetrated by LASTINGER and DOES 11 through  
21 25, making them liable under a theory of *respondeat superior*.  
22

23           55.    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 shock and injury to his nervous system, all of which have caused, and will continue to cause  
26 Plaintiff great mental pain, embarrassment, humiliation, distress, anguish and suffering, all to his  
27 damage in an amount to be proven at the time of trial of this action.  
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1 STANFORD HEALTH CARE and DOES 1-10, and each of them, received actual notice of  
2 LASTINGER'S proclivity to engage in inappropriate sexual contact with anesthetized patients after  
3 witnessing LASTINGER engage in this assaultive and sexually abusive behavior with other  
4 patients in the surgical theater, including, but not limited to, witnessing an incident on March 20,  
5 2015.  
6

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

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

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

25 70. As a direct, legal, and proximate result of the conduct of Defendants STANFORD  
26 HEALTH CARE and DOES 1 through 25, and each of them, as herein alleged above, Plaintiff was  
27 injured in his strength, health, and activity, sustaining shock and injury to his nervous system, all of  
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**DEMAND FOR JURY TRIAL**

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

Dated: November 1, 2016

**MATIASIC & JOHNSON LLP**

By: 

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

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1 **PROOF OF SERVICE**

2 **DOE v. STANFORD HEALTH CARE, ET AL.**  
3 **STATE OF CALIFORNIA, COUNTY OF SAN MATEO**

4 I am employed in the County of San Francisco, State of California. I am over the age of 18  
5 and not a party to the within action. My business address is 44 Montgomery Street, Suite 3850, San  
6 Francisco, California, 94104.

7 On November 7, 2016, I served the following documents described as

8 **FIRST AMENDED COMPLAINT FOR DAMAGES**

9 on all interested parties in this action by placing  a true copy  the original thereof enclosed  
10 in sealed envelopes addressed as follows:

11  (BY FACSIMILE) The facsimile machine I used complied with Rule 2003(3) and no error  
12 was reported by the machine. Pursuant to Rule 2008(e)(4), I caused the machine to print a  
13 record of the transmission.

14  (BY E-MAIL or ELECTRONIC TRANSMISSION) Based on court order or an agreement of  
15 the parties to accept service by e-mail or electronic transmission, I caused the document to  
16 be sent to the persons at the e-mail addresses listed below:

17  (BY MAIL, 1013a, 2015.5 C.C.P.)

18  I deposited such envelope in the mail at San Francisco, California. The envelope was  
19 mailed with postage thereon fully prepaid.

20 Michael T. Lucey, Esq.  
21 Eric A. Ortiz, Esq.  
22 GORDON & REES LLP  
23 275 Battery Street, Suite 2000  
24 San Francisco, CA 94111  
25 (*Attorneys for Defendant Stanford Health Care*)

26  I am readily familiar with the firm's practice for collection and processing  
27 correspondence for mailing. Under that practice, this document will be deposited with the U.S.  
28 Postal Service on this date with postage thereon fully prepaid at San Francisco, California in the  
ordinary course of business. I am aware that on motion of the party served, service is presumed  
invalid if postal cancellation date or postage meter date is more than one day after date of deposit  
for mailing in affidavit.

(BY OVERNIGHT DELIVERY/COURIER)

I delivered such envelope to an authorized courier or driver authorized by the express  
service carrier to receive documents in an envelope or package designated by the  
express service carrier with delivery fees provided for.

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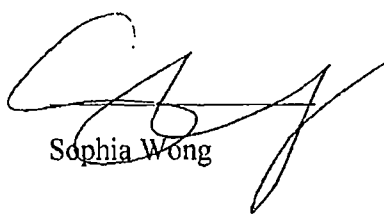
I deposited such envelope in a box or facility regularly maintained by the express service carrier in an envelope or package designated by the express service carrier with delivery fees provided for.

(BY MESSENGER) I served the documents by placing them in an envelope or package addressed to the persons at the addresses listed above and providing them to a messenger for personal service. (A proof of service executed by the messenger will be filed in compliance with the *Code of Civil Procedure*.)

(BY PERSONAL SERVICE) I delivered the foregoing envelope by hand to the following individual:

(STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on November 7, 2016, at San Francisco, California.

  
Sophia Wong