



resident, living in the City and County of Honolulu, State of Hawaii.

2. Defendant STATE OF HAWAII is a sovereign entity subject to liability pursuant to the State Tort Liability Act, as set forth in Hawaii Revised Statutes Chapter 662.

3. Defendant CORRECTIONS CORPORATION OF AMERICA, INC., based upon information and belief, is a Maryland corporation which owns and operates the Saguro Correctional Center, located at 1250 East Arica Road, Eloy, Arizona 85231. However, it is acting as an agent for, and on behalf of, Defendant STATE OF HAWAII with respect to the incarceration of Hawaii inmates, including Plaintiff herein.

4. DOE DEFENDANTS 1-50 are persons, corporations, partnerships or other entities who are being sued under fictitious names because Plaintiff does not know their true names, identities, capacities, activities and/or responsibilities. However, Plaintiff believes that said DOE DEFENDANTS 1-50 are or may be, or were or may have been, in some yet undetermined manner or capacity, responsible for the damages, harm, losses, costs and expenses suffered by the Plaintiff referred to herein; and further that said DOE DEFENDANTS 1-50 legally caused and/or contributed to said harm, losses, costs and expenses through their intentional, negligent, wrongful and/or tortious acts. Plaintiff has been unable to ascertain the identities of these DOE DEFENDANTS 1-50 through an examination of

documents available to him at this time. Accordingly, Plaintiff prays for leave to amend this Complaint and insert the true names, identities, capacities, activities, responsibilities and/or omissions of DOE DEFENDANTS 1-50 when and if the same are ascertained.

#### Statement of Facts

5. In September 2005, Plaintiff JONATHAN KEMONA KAMAKA was incarcerated at the Oahu Community Correctional Center (hereinafter "OCCC") to serve a five year prison term for a conviction of drug possession.

6. Plaintiff was transferred in April 2007 to Diamondback Correctional Center in Oklahoma with more than one hundred other Hawaii male inmates.

7. In August 2007, Plaintiff, along with the other Hawaii inmates held at Diamonback, was moved to Saguro Correctional Center in Arizona (hereinafter "Saguro"), which was operated by Defendant CORRECTIONS CORPORATION OF AMERICA, INC. (hereinafter "CCA"). CCA is acting as an agent for, and on behalf of, Defendant STATE OF HAWAII with respect to the incarceration of Hawaii inmates, including Plaintiff herein.

8. At Saguro, Plaintiff was housed, among other places, in the N-Unit.

9. On or about October 27, 2009, at approximately 12:00 p.m., Plaintiff was standing outside the door of his pod in the N-Unit waiting to reenter. He had previously been instructed

to return food trays from his pod in the N-Unit to the Control Station.

10. As Plaintiff was waiting to reenter his pod in the N-Unit, he was approached by Richard Ketland (hereinafter "Ketland"), who was an Adult Correctional Officer employed by CCA.

11. Ketland told Plaintiff, inappropriately and in violation of the standards governing conduct between ACOs and inmates, that Plaintiff had "lost some weight," that he was "looking good," and Ketland asked Plaintiff "when was the last time that you had some dick."

12. Plaintiff, shocked, did not respond to Ketland, but instead turned his back to Ketland and waited for the door to his pod to open so he could return to his housing.

13. Upon reentering his housing unit, Plaintiff sought to tell the correction officer that was stationed in his unit, but unfortunately when Plaintiff went to her office Plaintiff saw that she was busy.

14. Thereafter, Plaintiff went back to his cell for lockdown.

15. Ketland came to Plaintiff's cell, among others, to conduct a head count of inmates. While doing so, he queried as to Plaintiff being alone in his cell. Plaintiff did not respond.

16. A few minutes later, Ketland returned and let himself into Plaintiff's cell.

17. He threatened Plaintiff with punishment if Plaintiff did not comply with Ketland's directions.

18. Plaintiff, in fear, did not know how to respond to Ketland.

19. Ketland then unzipped his pants, and thereafter ordered Plaintiff to perform oral sex on Ketland.

20. Plaintiff, afraid that Ketland would use his authority to file a false report against Plaintiff, complied and performed oral sex on Ketland.

21. At the time of the tortious act above-described, Ketland was in the course and scope of his employment and/or an agent of Defendants STATE OF HAWAII and CCA, and, therefore, Defendants are liable for the negligent or tortious acts of their employees or agents under the doctrine of *respondeat superior* or principles of agency.

22. Ketland was subsequently convicted of unlawful sexual contact.

#### Count I-Negligence

23. Plaintiff incorporates by reference as if fully set forth herein the allegations and averments of the foregoing paragraphs.

24. Defendants owed Plaintiff a duty to ensure that his incarceration would be safe.

25. Defendants breached said duty when, among other things, it failed to prevent Plaintiff from being sexually

assaulted.

26. As a consequence of Defendants' negligence, Plaintiff has suffered general and special damages, including severe mental anguish.

Count II-Negligent Training and Supervision

27. Plaintiff incorporates by reference as if fully set forth herein the allegations and averments of the foregoing paragraphs.

28. Defendants owed Plaintiff a duty to ensure that the personnel who managed inmates, including Plaintiff, were properly trained and supervised.

29. On information and belief, Ketland was having inappropriate contact with other inmates at Saguro, as well as abusing his power with respect to inmates by threatening to write them up or taking away their privileges if the inmates did not comply with his demands.

30. Defendants were negligent in training and supervising Ketland, and as a consequence of their negligence Plaintiff suffered general and special damages, including severe mental anguish.

Count III-Punitive Damages

31. Plaintiff incorporates by reference as if fully set forth herein the allegations and averments of the foregoing paragraphs.

32. Defendants' actions set forth above demonstrate a

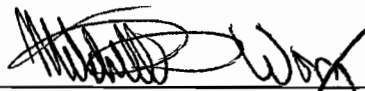
criminal indifference to civil obligations, willful misconduct, and/or such an entire want of care so as to raise the presumption of a conscious indifference to civil obligations, and thus an imposition of punitive damages is justified.

Prayer for Relief

WHEREFORE, Plaintiff JONATHAN KEMONA KAMAKA, prays for judgment in his favor and against Defendants STATE OF HAWAII, CORRECTIONS CORPORATION OF AMERICA, INC., and DOE DEFENDANTS 1-50, and all of them, jointly and severally, as follows:

- A. For general damages in an amount to be shown at trial, but not less than the jurisdictional limits of this court;
- B. For special damages in an amount to be shown at trial;
- C. For punitive damages in an amount to be shown at trial;
- D. For reasonable attorney's fees and costs of suit, prejudgment and post-judgment interest as provided by statute; and
- E. Such other and further relief, both legal and equitable, as the Court deems just.

DATED: Honolulu, Hawaii, 1/10/11

  
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