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FIRST CIRCUIT COURT  
STATE OF HAWAII  
FILED

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F. OTAKE  
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Charles A. Cocklin II

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

CHARLES A. COCKLIN II )

CIVIL NO. 12-1-1274-05 GWBC

Plaintiff, )

COMPLAINT; SUMMONS )

vs. )

STATE OF HAWAII; JOHN AND/OR )  
JANE DOES 1-10; DOE ENTITIES 1 -10, )

Defendants. )  
\_\_\_\_\_ )

COMPLAINT

Plaintiff Charles A. Cocklin II, by and through his undersigned attorneys,  
alleges as follows:

1. In this action Plaintiff seeks compensation under the State Tort Claims Liability Act for injuries that he suffered due to being locked in a cell at Oahu Community Correctional Center, Honolulu, Hawai'i [hereinafter "OCCC"] overnight

with his deceased cellmate in spite of Plaintiff's repeated pleas for assistance and the subsequent retaliatory actions which Plaintiff suffered.

2. Plaintiff is and has been a resident of the State of Hawai'i who is and was incarcerated at the OCCC at all times pertinent hereto.

3. Defendant State of Hawaii is responsible for the operation, administration, and maintenance of OCCC and is amenable to suit with respect to Plaintiff's claims herein.

4. John or Jane Does 1-25 and Doe Entities 1-25 are administrators, supervisors, corrections officers, counselors and/or other employees and/or staff of the Oahu Community Correctional Center and/or Corrections Division of the Department of Public Safety, State of Hawai'i whose true names and capacities are as yet unknown to Plaintiff and his counsel despite inquiry and due diligence, who acted and/or failed to act herein as more particularly alleged below, and whose true names and capacities will be substituted as soon as the same become known. Doe Defendants are sued herein in their official capacities.

#### Factual Allegations

5. On or about July 15, 2009, Plaintiff was arrested for allegedly having committed various offenses and detained at OCCC pending trial.

6. On or about May 12, 2010, Plaintiff was transferred into a cell at OCCC with a former Adult Corrections Officer (hereinafter "ACO") who was fearful of the current ACOs at OCCC and had a history of suicide attempts.

7. On May 12, 2010, at approximately 10:30 p.m., Plaintiff awoke in his cell to discover that his cellmate had committed suicide by hanging himself.

8. Plaintiff found a suicide note along with his cellmate's body and discovered that his cellmate had called his family earlier that day to say "goodbye".

9. Plaintiff fell out of his bunk in a panic, slipped and hit his head, and then ran over to the cell door to pound on the door and yell for assistance.

10. Although Plaintiff could see three uniformed ACOs who were supposed to be monitoring his cell (hereinafter "three ACOs"), none of those ACOs responded to Plaintiff pounding on the cell door and yelling for assistance.

11. Plaintiff observed that one of the three ACOs appeared to be sleeping and that another of the three ACOs was sitting in his chair with a towel draped over his head.

12. Plaintiff heard the telephone ringing where the three ACOs were located, and one of the ACOs answered that telephone call, so Plaintiff continued banging on his cell door and yelling for assistance; however, no one responded to him.

13. On or about May 13, 2010, at a time between approximately 4:00-4:30 a.m., ACOs came to Plaintiff's cell to deliver breakfast and discovered Plaintiff's cellmate's body.

14. Plaintiff is informed and believes and thereupon alleges, that only one of the three ACOs was subsequently suspended from duty for a brief period due to the failure to monitor Plaintiff's cell and/or respond to his pleas for assistance.

15. Plaintiff is informed and believes and thereupon alleges, that ACOs subsequently falsified the cell check work logs in an attempt to cover-up the fact that the three ACOs had not monitored Plaintiff's cell.

16. Plaintiff is informed and believes and thereupon alleges, that the three ACOs and/or other ACOs who participated in falsifying cell check work logs were not sufficiently disciplined by Defendant State of Hawaii for the failure to adequately monitor Plaintiff's cell, respond to his pleas for assistance, and/or for falsifying the cell check work logs.

17. An ACO subsequently threatened Plaintiff verbally and Plaintiff received a threatening letter relating to the fact that one of the three ACOs had been disciplined.

18. Plaintiff suffered from headaches and vomiting for three to four days after May 13, 2010, but his requests to see a physician were denied.

19. Although Plaintiff has suffered and is suffering from severe emotional distress due to his ordeal of being locked in a cell overnight with a dead body, OCCC provided minimal treatment and medication; however, the prison doctor told Plaintiff that because his psychiatric treatment requires greater expertise than that doctor possesses he has stopped treating Plaintiff for emotional distress.

20. Plaintiff's emotional distress is so severe that he has made two suicide attempts, and he suffers from a variety of ailments including, but not limited to, insomnia, neck pain, phantom smells, and visions of his cellmate's dead body.

21. As a direct and proximate result of the foregoing Plaintiff suffered the deprivation of his liberties and rights, great mental anguish, emotional distress, anxiety, embarrassment, humiliation, worry, anger, and other consequential damages in amounts to be proven at trial.

First Cause of Action  
(Negligence)

22. Plaintiff hereby incorporates all of the allegations contained in Paragraphs 1 through 21, above.

23. While Plaintiff is committed to its care and custody at OCCC, Defendant State of Hawaii and/or its administrators, supervisors, corrections officers, counselors and/or other employees and/or staff at OCCC owed Plaintiff a duty to exercise reasonable custodial care to protect him against an unreasonable risk of harm, and to give Plaintiff first aid and care after Defendant State of Hawaii and/or its administrators, supervisors, corrections officers, counselors and/or other employees and/or staff at OCCC knew or had reason to know that Plaintiff was injured and required care.

24. Defendant State of Hawaii and/or its administrators, supervisors, corrections officers, counselors and/or other employees and/or staff at OCCC breached their duty to exercise reasonable care and failed to protect Plaintiff from an unreasonable risk of foreseeable harm by not monitoring his cell despite his cellmate's prior suicide attempts and ignoring his pleas for assistance to leave Plaintiff locked in his cell overnight with his cellmate's dead body, not treating and caring for Plaintiff's resulting injuries, and failing to adequately supervise and/or discipline the three ACOs and any other ACOs who participated in falsifying cell check work logs and/or threatened Plaintiff.

25. The aforementioned breaches of care directly and proximately caused Plaintiff's injuries described herein.

26. The negligent acts of Defendant State of Hawaii's administrators, supervisors, corrections officers, counselors and/or other employees and/or staff at OCCC

described herein were within those administrators, supervisors, corrections officers, counselors and/or other employees and/or staff's scope of employment, being the kind of work they had been employed to perform, occurring within the authorized time and space limits of employment, and actuated, at least in part, by a purpose to serve Defendant State of Hawaii.

Second Cause of Action  
(Negligent Infliction of Emotional Distress)

27. Plaintiff hereby incorporates all of the allegations contained in Paragraphs 1 through 26, above.

28. Defendant State of Hawaii and/or its administrators, supervisors, corrections officers, counselors and/or other employees and/or staff, acting within the scope of their employment, negligently caused Plaintiff to suffer severe emotional distress.

Third Cause of Action  
(Intentional Infliction of Emotional Distress)

29. Plaintiff hereby incorporates all of the allegations contained in Paragraphs 1 through 25, above.

30. The acts of Defendant State of Hawaii's administrators, supervisors, corrections officers, counselors and/or other employees and/or staff were intentional and/or reckless, outrageous, unreasonable, and without just cause or excuse, thereby causing Plaintiff severe and extreme emotional distress.

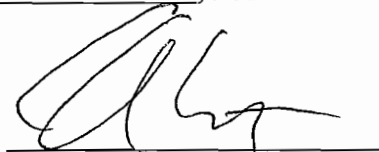
31. Plaintiff is informed and believes and thereupon alleges, that Defendant State of Hawaii's administrators, supervisors, corrections officers, counselors and/or other employees and/or staff acted herein knowingly, intentionally, willfully,

and/or recklessly, with deliberate indifference for the rights, interests, and/or well-being of Plaintiff.

WHEREFORE, Plaintiff prays for relief as follows:

1. For special damages, including consequential damages, in amounts to be proven at trial;
2. For general damages according to the proof thereof at trial;
3. For reimbursement of Plaintiff's costs and expenses herein, including reasonable provision for his attorneys' fees; and
4. For such further and additional relief as the Court deems appropriate and just.

DATED: Honolulu, Hawaii, MAY 07, 2012.



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Attorneys for Plaintiff