

23-7760

Samreen Riaz,
1534 S Manzanita street
Visalia, California 93292
TeL no: 951-373-0239
Petitioner, pro per litigant

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SUPREME COURT U.S.

NO: _____ **ORIGINAL**
IN THE SUPREME COURT OF THE UNITED STATES

Samreen Riaz
Petitioner,
vs.
Kaweah Health medical Center et al
Defendants

1. Supreme Court of California
350 McAllister Street.
San Francisco, CA 94102-4797.
415-865-7000.

2. 5th District Appeal Court
2424 Ventura St,
Fresno, CA 93721
(559) 445-5491 3.

3. Tulare superior Court,
Justice Hillman Brett,
Dept 7 221
S Mooney Blvd,
Visalia, CA 93291
(559) 730-5000

Respondent
Supreme Court Of California: S284004
5th District Appeal Court: F085325
Tulare Superior Case No: Vcu291575

On Petition for Writ Of Certiorari To The California Supreme Court
Petition for Certiorari

Question Presented :

Did the Supreme court of California (S284004) in error, abuse discretion and show bias in denying Petition and application for stay on May 1st 2024 and left unresolved conflicted issue of law and factual issue? (**Appendix A**)

.Did the Appeal court in error, abuse discretion and show biased in an Opinion (F085325) given on Jan 31 24 & left unresolved conflicted issues of law and factual issues)based on challenging APPEAL from Judgments of dismissals from the Superior Court of Tulare County VCU291575.? (**Appendix B**)

Did the Appeal court in error, abuse discretion of denying Appellate petition for rehearing on March 1 24 (filed on Feb 29 24) based on Opinion of 5th district given on Jan 31 24 -F085325) and left unresolved conflict of legal issue and factual issue **Appendix C**

.Did the Tulare court in error, abuse discretion and show biased in Opinion given on Oct 25 22 (VCU291575).?(see record on appeal pgs 1106-1119)

.Did plaintiff **Fourth Amendment** constitutional rights violated by the defendant? **United States v. Mendenhall, 446 U.S. 544, 554, 100 S.Ct. 1870, 64 L.Ed.2d 497 (1980)**.

.Did plaintiff **1st, 2nd, Seventh and Fourteenth amendment rights violated due to unlawful application of 5150?**

.Does it established during the time of the seizure that plaintiff was not an imminent danger to herself or others and did not fit the criteria gravely disabled (underSection 5150) ? **Mabe v. San Bernardino County, 237 F.3d 1101, 1106 (9th Cir.2001); Wallis v. Spencer, 202 F.3d 1126,1138 (9th Cir.2000)**

.Did plaintiff due process rights violated(5th amendment) ?

.DID 42 U.S.C. § 1983 Claim Exempt Tort Claim? **Fayle v. Stapley, 607 F.2d 858, 862 (9th Cir. 1979), United Steelworkers of America v. Phelps Dodge Corp., 865 F.2d 1539, 1540 (9th Cir. 1989)**

Did the lower courts make an error , showing bias and abuse discretion when applying statute of limitations under Code of Civil Procedure section 340.5 to the circumstances described by the causes of actions in this case?

.Did municipality liable under section 1983 when a city employee violates federally protected right while implementing or executing a policy, statement, ordinance, regulation, or decision officially adopted and promulgated by city officials.? **Monell v. New York Dept. of Soc. Serv., 436 U.S. 658, 690-91, 98 S.Ct. 2018, 2035-36,56 L.Ed.2d 611 (1978)**

Suggested Answer: Yes

Certificate of Interested Entities or Persons:

Pursuant to Rules 8.208 and 8.488 of the California Rules of Court, the undersigned identifies the following interested entities or persons per rule 8.208.

.APPEARANCE FOR Defendant and Respondent :

Rachele Berglund Herr Pedersen & Berglund, LLP 100 Willow Plz Ste 300 Visalia, CA 93291 Defencenet Kaweah, and employees Said MD • Rachele Berglund (rberglund@hpblaw.net)

.APPEARANCE FOR Defendant and Respondent: Stephanie Smittle Tulare County Counsel 2900 W Burrel Ave Visalia, CA 93291 Defendant HHSA and employee Lupe • Stephanie Smittle (srsmittle@tularecounty.ca.gov)

APPEARANCE FOR Defendant and Respondent: Mark B. Canepa White Canepa LLP 7690 N. Palm Ave, Ste 105 Fresno, CA 93711 Andrew K. Schaeffer Cota Rosen LLP 500 Esplanade Drive, Suite 950 Oxnard, CA 93036 James C. Sheaffer 500 Esplanade Drive, Suite 950 Oxnard, CA 93036-2209 Defenndnet Benjamin • Andrew Whitman (awhitman@scr-legal.com) • Andrew Whitman (eservice@scr-legal.com) • (mcanepa@whitecanepa.com) (jschaeffer@scr-legal.com)

.APPEARANCE FOR Defendant and Respondent: Jonquil Linda Whitehead Hall Prangle & Schoonveld LLC 5963 La Place Court Suite 310 Carlsbad, CA 92008-5507 Defendant Heritage oak hospital • Jonquil Whitehead (jwhitehead@hpslaw.com)

5/29/24

TABLE OF CONTENTS:

COVER PAGE	1
QUESTION PRESENTED	2
CERTIFICATE OF INTERESTED ENTITIES OR PERSONS	3
TABLE OF CONTENTS	4
INDEX TO APPENDICES	5
TABLE OF AUTHORITIES	6 -9
PETITION	10
JURISDICTION	11
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED:.....	12
I:STATEMENT OF THE CASE.....	13
II: ERROR IN FACTUAL FINDING IN THE OPINION	14-15
III ERROR and ABUSE OF DISCRETION OF 5TH DISTRICT COURT IN DESCRIBING PRESENT CASE..	15
ERROR A.....	15
ERROR B.....	15
ERROR C.....	16
ERROR D.....	16
DISCUSSION/ARGUMENTS PRESENTED FOR REVIEW	16
A:Abuse Discretion not allowing Amended Complaint.....	16
B:Tort Compliance Exemption.....	17,18
1- 42 U.S.C. § 1983 Claim Exempt Tort Claim.....	18
2- Failed to provide Attorney fees.....	19
3- Failed to provide e/non economic,,civil penalties punitive damages...	20
4:Failed To provide [e]equitable[,] [i]injunctive and declaratory relief	21
5:16th cause of action, labeled "Civil Harassment Ca Civ, Code 527.6.....	21
6: Welfare Code Exemption.....	22
7: Welfare Code excuse compliance	22
C:Statute Of limitation	22
D:Lupe HSA Liability.....	26,27
E: Rehabilitation Section 1973.....	28
F:Tort Claim Requirement.....	29
1- Compliance /due diligence.....	29
2-Excusable neglect.....	30
3-Late claim.....	31
4-FederalComparision.....	33
5-KHMC and employee Status.....	33
G.Demurrer ruling challenges	34.
VERIFICATION	36
CONCLUSION	37
CERTIFICATE WORD COUNT	38
PROOF OF SERVICE	39
EXHIBITS LIST (Filed as separate attachments) Exhibit A-C	

INDEX TO APPENDICES:

Appendix A Decision of Supreme court of California denying Petition and application for stay on May 1st 2024 (S284004).

Appendix B Decision of Appeal court Opinion given on Jan 31 24 (F085325) based on challenging APPEAL from Judgments of dismissals from the Superior Court of Tulare County vcu291575.

Appendix C Decision of Appeal court denying rehearing (filed on feb 29 24) on March 1 24 (F085325)

TABLE OF AUTHORITIES:
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED:

Insurance Co. of North America v. Workers Comp. Appeals Bd. (1981) Pg 12	
Duke v. Workers Comp. Appeals Bd. (1988) 204 Cal. App. 3d 455, 460 Pg 12	
Pederson v. South Williamsport Area School District....Pg 13	Pg 12
United States District Courts in Perry v. Coyler (1978, 524 F 2d. 644)Pg 12	
Ascolese v. Southeastern Turnpike Authority, C 925 F. supp. 351.....Pg 12	
T.H. v. Novartis Pharmaceuticals Corp. (2017) 4 Cal.5th 145, 162.).....Pg 12	
Owen v. City of Independence, 445 U.S. 622.....pg 16	
Cano v. Glover (2006) 143 Cal.App.4th 326, 329.....Pg 17.	
Schifando v. City of Los Angeles (2003) 31 Cal.4th 1074, 1081.....Pg 17	
Meyer v. State Board of Equalization (1954) 42 Cal.2d 376, 384.....Pg 17	
Foreman & Clark Corp. v. Fallon (1971)	Pg 17
T.H. v. Novartis Pharmaceuticals Corp.....Pg 17	
Schifando v. City of Los Angeles (2003) 31 Cal.4th 1074, 1081.)	Pg 17
Cano v. Glover (2006) 143 Cal.App.4th 326, 329.....Pg 17	
DCD Programs, Ltd. v. Leighton, 833 F.2d 183, 186 (9th Cir. 1987).	Pg 17
Rosenberg Brothers Co. v. Arnold,283 F.2d 406 (9th Cir. 1960)	Pg 17
Foman v. Davis, 371 U.S. 178, 182, 83 S.Ct. 227, 230, 9 L.Ed.2d 222 (1962). Pg 17	
Williams v. Horvath, 16 Cal.3d 834, 842 (1976).....Pg 18	
Donovan v. Reinbold (9th Cir. 1970) 433 F.2d 738.....Pg 18	
Bell v. Hood, 327 U.S. at 327 U. S. 684	Pg 18
Bemis Bros. Bag Co. v. United States, (1933)	Pg 18
Testa v. Katt (1947) 330 U.S. 386, 389-393.....	18
Brown v. Pitchess (1975) 13 Cal.3d 518, 520-523.....	18
O'Sullivan v. Felix (1914) 233 U.S. 318 [58 L.Ed. 980, 34 S.Ct. 596].....	18
Campbell v. Haverhill (1895) 155 U.S. 610, 618 [39 L.Ed. 280, 283, 15 S.Ct. 217.....	18

Monroe v. Pape (1961) 365 U.S. 167, 196	18
Moor, <i>supra</i> , at p. 699 [36 L.Ed.2d at p. 604].).....	18
Williams v. Horvath (1976) 16 Cal. 3d 834, 842	18
Donovan v. Reinbold (9th Cir. 1970) 433 F.2d 738.).....	18
Owens v. Okure, 488 U.S. 235 (1989)	Pg 23
Wilson v. Garcia, 471 U.S. 261 (1985)	Pg 23
Schoendorff v. Society of New York Hosp., 105 N.E. 92, 93 (N.Y. 1914)	Pg 23
Donovan v. Reinbold (9th Cir. 1970) 433 F.2d 738 23	Pg 23
Unruh-Haxton, <i>supra</i> , 162 Cal.App.4th at p. 353, 1987	Pg 24
Clauson v. Superior Court (1998) 67 Cal.App.4th 1253, 1255.....	Pg 24
Terry v. Ohio(1968)	Pg 24
Cunha v. Superior Court (1970)	Pg 24
Union Pac. R. Co. v. Botsford, 141 U. S. 250, 251 (1891).....	Pg 25
Katz v. United States, 389 U. S. 347, 351 (1967).	Pg 25
People v. Agnew, 16 Cal.2d 655, 659-60 (Cal. 1940)	Pg 25
Smith v. Wade, 461 U.S. 30, 56, 103 S.Ct. 1625, 75 L.Ed.2d 632 (1983)....	Pg 25
Barragan v. County of Los Angeles (2010) 184 Cal.App.4th 1373, 1384....	Pg 26
Quoting Hsu v. Mt. Zion Hosp. (1968) 259 Cal.App.2d 562, 572–573.)	Pg 26
United Steelworkers of America v. Phelps Dodge Corp.....	Pg 27
.Fayle v. Stapley, 607 F.2d 858, 862 (9th Cir. 1979).....	Pg 27
Siegert v. Gilley, 500 U.S. 226, 233-34 (1991).).....	Pg 27
Preschooler II v. Clark County Sch. Bd.	Pg 28
Gordon v. Degelmann, 29 F.3d 295, 300 (7th Cir.1994)	Pg 28
Vikse v. Flaby, 316 N.W.2d 276, 284 (Minn. 1982)	Pg 28
Dunn v. City of Elgin, 347 F.3d 641, 649 (7th Cir.2003)	Pg 28
Rehabilitation Act of 1973 (Rehabilitation Act) (29 U.S.C. § 794)	Pg 28
K.M. ex rel. Bright v. Tustin Unified Sch. Dist. (9th Cir. 2013) 725 F.3d 1088, 1102.)..	Pg 28

Monell: 42 USC Section 1983. In the Ninth Circuit	Pg 30
AE ex rel. Hernandez v. County of Tulare, 666 F.3d 631, 636 (9th Cir. 2012).	Pg 30
City of Stockton v. 23. Superior Court (2007) 42 Cal.4th 730, 738.).....	Pg 32
Viles v. State of California (1967)	Pg 32
Childs v. State of California (1983)	Pg 34
County of Santa Clara v. Atlantic Richfield Co.....	Pg 35
Otworth v. Southern Pac. Transportation Co.	Pg 35
Aubry v. Tri-City Hospital Dist. (1992).....	Pg 35
Smith v. Wade, 461 U.S. 30, 56, 103 S.Ct. 1625, 75 L.Ed.2d 632 (1983).....	Pg 37
Campbell v. Burt, 141 F.3d 927 (9th Cir. 1998).....	Pg 37
Ram v. Rubin, 118 F.3d 1306, 1310 (9th Cir. 1997).	Pg 37

First Amendment.....	12
Fourteenth Amendment.....	12
Fourth amendment.....	12
7th Amendment	12
CIVIL RIGHTS §1983 Civil Rights Acts and 18 U.S.C.....	12,13
42 U.S Code § 1983.....	18
Section 911.2.....	18
Code Civ. Proc., § 338,	Pg 23.
California Code of Civil Procedure section 335.1	Pg 23
Enacted in 1967, section 5150 of the LPS Act	Pg 24
Penal Code violation. (See Stats. 1975, ch. 960, § 2, p. 2243.....	Pg 24
Pen. Code, sec. 236.....	Pg 25
Pen. Code, sec. 237.....	Pg 25
Civil Code section 52.1. Section 52.1,	Pg 31

Tom Bane Civil Rights Act.....	Pg 31
§ 52.1, subd. (a).).	Pg 31
§ 911.4, subd. (b)),.....	Pg 32
Government Code section 946.6 (subd. (c)).....	Pg 32
section 945.4.....	Pg 33
section 912	Pg 33
section 945.4(1)	Pg 33

IN THE SUPREME COURT Of THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

TO THE HONORABLE JUSTICES, Plaintiff is filing a writ of certiorari (Rule 10(a)) in the SUPREME COURT Of THE UNITED STATES as a matter of right of judicial discretion from the Opinion given by supreme court of California (S284004), Petition denying rehearing (on March 1 24) and the opinion(given on Jan 31 24) by the fifth district court (F085325) on appeal from judgment dismissal from Tulare superior court in the case vcu291575 from tentative ruling given on Oct 25 22 (Attached as Exhibit A,B,C, Record on appeal pgs 1106-1118))

Petition is presenting a question of law for the US Supreme court on issues of public, government, constitutional importance and civil rights violations and requesting the US supreme Court to make a decision based on their individualized evaluation, guided by the principles of law. The Supreme court of California, 5th district appeal court, The Superior court has decided federal questions in a way or entered a decision in conflict with the other United States court decision in the same important matter. The Entire evidence and record was not examined for fairness, reasonableness and proportionality in the overall scheme of the law. Here the lower Court's decision is not within the realm of what a reasonable trier of fact could find. Lower courts failed to meet standard when presented fabricated, disputed, speculative facts and concealed material relevant facts of record to reach (erroneous) decision. Lower courts departed from the accepted and usual course of judicial proceedings.

IN THE SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully request that writ of certiorari issued to review the judgment below cases From State Courts:

OPINION BELOW

Did the Supreme court of California in error, abuse discretion and show bias in denying Petition and application for stay on May 1st 2024 (S284004) based on challenging APPEAL from Judgments of dismissals from the Superior Court of Tulare County vcu291575. (F085325).? (**See Exhibit A**)

.Did the appeal court in error, abuse discretion and show bias in making Opinion given on Jan 31 24 (F085325) (**See Exhibit B**) which was based on challenging APPEAL from Judgments of dismissals from the Superior Court of Tulare County VCU291575. And denying petition (March 1 24) rehearing (**Exhibit C**)?

.Did the Tulare court in error, abuse discretion and show bias in tentative ruling given on Oct 25 22 ruling(vcu291575) and issuing judgment dismissal ?(see record on appeal pgs 1106-1119)

JURISDICTION

The date on which the Supreme Court of California (S284004) decided or denied review of petitioner case on May 1st 2024 .A Copy of that decision appears at (**Appendix A**.)

The date on which the 5th District Court (F085325) Court gave an opinion was Jan 31st 24 . (**Appendix B**)

The date on which the 5th District Court denial (F085325) Court decided denying rehearing on March 1 24 (filed on Feb 29 24) based on Opinion of 5th district given on Jan 31 24 -F085325 (**Appendix C**)

The date on which the Tulare Superior Court made tentative ruling on Oct 25 22 after which Judgments of dismissals entered in the Superior Court of Tulare County vcu291575 .(see record on appeal pgs 1106-1119)

The Jurisdiction of this Court is invoked under 28 U.S.C S 1257(a)

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED:

We are not bound to accept the Boards factual findings where they are illogical, unreasonable, or improbable (**Insurance Co. of North America v. Workers Comp. Appeals Bd. (1981) 122 Cal. App. 3d 905, 911 [176 Cal.Rptr. 365]**), where they do not withstand scrutiny when considered in light of the entire record (**Duke v. Workers Comp. Appeals Bd. (1988) 204 Cal. App. 3d 455, 460 [251 Cal.Rptr. 185]**),

In Pederson v. South Williamsport Area School District, the courts interpreted due process as "Essentially fundamental fairness is exactly what due process means". Furthermore, the United States District Courts in **Perry v. Coyler (1978, 524 F 2d. 644)** have concluded the following: "Even the probability of unfairness can result in a defendant being deprived of his due process rights.".

First Amendment of the US Constitution: Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances, **Fourteenth Amendment:** "nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws",, **The Second Amendment:** the right to bear arms.**Fourth amendment** prohibits unreasonable searches and seizures and sets requirements for issuing warrants: warrants must be issued by a judge or magistrate, justified by probable cause, supported by oath or affirmation, and must particularly describe the place to be searched and the persons or things to be seized & **7th Amendment** where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved.

CIVIL RIGHTS §1983 Civil Rights Acts and 18 U.S.C.. Acts state the following: "The underlying purpose of the scheme of protecting constitutional rights are to permit victims of constitutional violations to obtain redress, to provide for federal prosecution of serious constitutional violations when state criminal proceedings are ineffective for purpose of deterring violations and to strike a balance between protection of individual rights from state infringement and protection from state and local government from federal interference",, **In Ascolese v. Southeastern Turnpike Authority, C 925 F. supp. 351.**One of the principal purposes of § 1983 was to give remedy to parties deprived of Constitutional Rights,privileges, and immunities by Official abuse of his or her position, that is to provide remedy against individual officials who violate Constitutional Rights, 42 U.S.C.A. § 1983.

In reviewing an order sustaining a demurrer, we examine the operative complaint de novo(**T.H. v. Novartis Pharmaceuticals Corp. (2017) 4 Cal.5th 145, 162.**)" "[A] demurrer 'admits the truth of all material factual allegations in the complaint ...; the question of plaintiff's ability to prove those allegations, or the possible difficulty in making such proof does not concern the reviewing court.' [Citations.]" (**Perdue v. Crocker National Bank (1985) 38 Cal.3d 913, 922.**).

I. Statement of the Case:

Samreen Riaz, Is an Asian, immigrant of Pakistani descent, belongs to less than 0.4 percent religious Muslim minority, woman of color " (These traits are relevant to claims of discriminatory treatment.) brings this action against all defendants **pursuant to 42 U.S.C. § 1983 and 1988**, along with supplemental state claims, to redress the **deprivation under color of law of Appellant's rights, privileges, and immunities secured by the Constitution of the United States**. Appellant harmed and seeking remedy for deprivation of her constitutional, statutory, and common law rights. Appellant also seeks an award of attorney's fees and costs **pursuant to 42 U.S.C. § 1988** . Appellant seeking to Provide injunctive and declaratory relief seeking expunge fraudulent unconsented created on appellant , compel law enforcement to investigate and press charges parties involved in civil rights violation in the incident 5150 and issue restraining order against defendant involved in civil right violations.

Appellant claims arise out of being unlawfully seized from August 12-Aug 17, 2020, when the above named individual defendants seized appellant when no emergency situation exists under the guise of a California Welfare and Institution. Appellant did not meet the criteria of gravely disabled persons and application of Code section 5150 **hold was unlawful (as well as unconstitutional). the criteria of a gravely disabled person are presented in FAC (see FAC record on appeal pgs 554-606, 781)**

.Welfare and Institutions Code section 5150 et seq does not authorize the involuntary detention, evaluation, and treatment of persons who can provide for her basic need for food , clothing or shelter or a person who is not gravely disabled . **(See record on appeal pg, 781)** .Appellant was a sole proprietor of residence 1534 South Manzanita street,Visalia ca 93292 . .Appellant was a licensed Dentist at the time of incident.Testimony of Visalia police officer Luma Fahoum on Feb 12 24 in the case trial VCU291199 as well as HSa, Hospital Kaweah and Heritage Oak record reflect(See Exhbhit C of s284004) that appellant was not suicidal, danger to herself or danger to others. .Appellant did not meet the criteria of the Gravely disabled person and placement was unlawful, pretextual retaliatory. Appellant was wrongfully(**pretextual reason**) detained and imprisoned (against her will, without her permission or consent and without following any due process)seized. **(U.S. Const. amend. IV; United States v. Sayakhom, 186 F.3d 928, 934 (9th Cir. 1999). United States v. Mendenhall.**This for such evaluation and treatment by the defendants to **(1) prevent her from testifying as a credible witness in OSHA and HIPPA Violation claims** against her former employers Altura case number vcu276991 **(2)For requesting an oversight on Visalia police department from Visalia police Department about July 30 2020 and City Of Visalia about Aug 5 2020 for not investigating whistleblower retaliatory crime against a court witness of protected class. department," under McGrew, all of them — leaders and line officers alike — should have known that the defective warrant made the search illegal. McGrew, 122 F.3d at 850 n. 5. But McGrew".**

.A private person may act under color of state law if he willfully participate[s] in joint action with state officials to deprive others of constitutional rights." **United Steelworkers of America v. Phelps Dodge Corp (9th Cir. 1989) (en banc).**

II. BIASED, ERROR AND ABUSE OF DISCRETION IN FACTUAL AND PROCEDURAL BACKGROUND FINDING BY THEAppeal COURT JUDGES OPINION (given on Jan 31 24 , Denying

Petition rehearing on march 1 24 -F085325) and in Denying Petition (S284004) by the Supreme court of california on may 1st 24 :(Exhibit A ,B,C, see record on appeal pgs 1106-1118)

A..The Appeal Court not only failed to admit the truth of all material factual allegations in the complaint, instead attempted to fill up details by taking selective judicial notice from different complaints with their own wrong narration and interpretation of those complaints and further associated those (false fact) narrations as plaintiff point of view in their opinion as facts . .(See detail facts on pg 9-10 of S284004 of appeal brief)

In Addition Fifth District Appeal Court further failed to take Judicial notice from the case Altura Centers for Health case in appeal F085852 in an **unbiased or fair manner** of the following documents that provide actual background context and detail facts that Altura centers(Federal reserve center pr Federally Qualified health center) is a direct beneficiary of constitution violation of plaintiff with unlawful application of Welfare code 5150 by the Defendants (F085325/VCU291575) in Aug 2020,. Threatening Letter from Altura in writing dated May 11 2018(ALTURA 00204/Exhibit B of S284004), Excellent Performance evaluation for year 2016 -2018(Exhibit B of S284004), Declaration of Ryan filed on Jun 07 2021, Transcript of Court hearing dated June 09 21 in the case vcu276991 .

.Facts are clear that Altura centers for health is a direct beneficiary of the action of defendants in this case by violating civil right of appellant for the purpose of discrediting court witness testimony. Appellant has no history of reporting crime to law enforcement , Court complaint or any mental order history from 2005 to 2018.However right after threat from Russel Ryan in May 2018 extraordinary effort was made to discredit court witness.(Case record on transcript on appeal vcu276991/Fo85852 pg 2023, 1506-1508,1900-1918)

See section B:(detail facts on pg 10 of S284004 of appeal brief and exhibit B) regarding Appeal Court showed bias, in error and abuse discretion when added selective contextual background from Family HealthCare Network case (Riaz v. Family Health Care Network, F085829)by filling so called informational gap" by taking judicial notice of selective documents and associated fabricated , speculative false fact with the appellant that “ She has alleged the CHP became involved in a large-scale conspiracy against her “due to [her] complaint to FQHC.” that “.Appellant did not allege in the complaint

See section C.(detail facts on pg 11 of S284004 of appeal brief and exhibit B)regarding .Appeal Court showed bias, in error and abuse discretion when added selective contextual background from Family HealthCare Network case (Riaz v. Family HealthCare Network, F085829)by filling up so -called informational gap” by taking judicial notice of selective documents when established disputed fact as facts regarding diagnosed and false fact finding that “ She also continued to experience what she perceived as various forms of “harassing and stalking” in her daily life”. See actual facts are .(See section C S284004 of pg 11 and 12 and exhibit B)

:5th District Court fills in the details by taking judicial notice of the selective(assumed) fact by using

biased words that plaintiff was' ' offended", "accused" 'when Deputy Rockholt "INSTRUCTED"
plaintiff to remove her shoes.5th District court appeal Court described facts in an untruthful manner
.(See section C of S284004 of pg 11 and 12 & attached exh B)

(See section D of brief S284004 of pg 12 and 13 regarding the concealment of the actual facts
)(record on appeal pgs 683-686)

Inshort: 5th District Court honorable judges are biased, in error and abused discretion when fill in the details by taking judicial notice of the selective facts by associating inaccurate statement as appellant statements in order to justify reason of Laws enforcement not investigation(whistleblower) crime and that the appellant somehow right after threat given by Altura attorney started **perceiving and experiencing** whistleblower retaliation, and put forward false narrative(based on speculative and fabricated) that plaintiff is not mentally competent.

. Most of the detail added by the 5th district court is relevant to this case in a manner that Visalia police department never investigated reported incidents of violence, vandalism, harassment and whistleblower retaliation but collaborated with HHSa, Kaweah and heritage Oak staff to apply(pretextual) (unlawful) 5150 and **violated plaintiff constitution 1st and 2nd, Fourth, seventh and fourteenth Amendment and 42 Usc Section 1983 right.**

III: ERROR and ABUSE OF DISCRETION OF 5TH DISTRICT COURT IN DESCRIBING PRESENT CASE:

A.5th district appeal court is in error, abused discretion and biased when concealed material facts from fact finding and presented speculative and fabricated facts (See S284004 of pg 13 and 15)

See material fact from "relevant documents) from "Police report'(see record on appeal pgs 685,686) ,HSa certification (See record on appeal pgs 684, 683), Notice of email plaintiff sent to the VPD(exhibit B) , Complaint about officer Valverde .See S284004 of pg 13 and 15)

The complaint may also be read "as if it included matters judicially noticed." **(Bohrer v. County of San Diego (1980) 104 Cal.App.3d 155, 164.)**

B:5th district appeal court is in error, abuse discretion and showed biased in fact finding when distorting fact(false fact finding) by stating ." During her second day at Kaweah Health Medical Center, hospital staff confiscated her phone "due to calling 911 and the crisis office multiple times..(S284004 of pg 13 and 15)

However, real fact alleged in the complaint were presented in the S284004 of pg 13 and 15 regarding Narrative of Visalia police officer Nathan, in police report based on 5150 incident. In a police report 20-068601 on pages 2-3/exhibit B of S284004) "I informed him she was on the phone with our 911 dispatchers wanting to report harassment and having been taken away from her home and placed in the medical facility. Leo informed me he would handle it and make sure she had her phone removed from her possession and secured with her personal property"

. 5th district concealed facts from fact finding about collaboration and influence of Visalia police department influencing Kaweah to take the phone from appellant by removing her from low risk to high risk patient for the reason that she is talking about lawsuit and lawyer and this is the reason they consider her gravely disabled. (see FAC pg 67 and 68) (see *Owen v. City of Independence*, 445 U.S. 622, 100 S.Ct. 1398, 63 L.Ed.2d 673)

.Appellant request the court to

.Take notice of the police report from the case Riaz v. Altura Centers for Health(**Exhibit B of S284004**) .Take all notice of record Exhibit C where low risk and high risk are defined when appellant was not a high risk patient .(**Exhibit C of S284004**)

. Take a notice of Exhibit C where Pt declined consent for treatment, evaluation admission . . Take notice of Exhibit C where record without appellant consent inter exchanges among all defendants and caused further reputational harm, privacy breach, see record on appeal pgs 486-502 in Aug 2020))

5th district acknowledges that Plaintiff further alleges Dr. Said “trusted police words and established an **unconsented Dr and patient relationship ... by holding her**” or more correctly involuntarily confined appellant, when she “**did not meet the criteria of a gravely disabled person.**” Dr. Said allegedly “did not check if the plaintiff was in fact gravely disabled and [went along] with police words and documented [c]harts negligently lead[ing] to transfers of the plaintiff to [another facility].”

. 5th district Court in error, biased, abused discretion when presented false fact “However, plaintiff also **claims to have discussed her conspiracy theories with Dr. Said**”. Plaintiff did not allege that she “discussed her CONSPIRACY THEORIES with Dr. Said”.

.5th district court opinion confirmed that Appellant lost her second amendment right due to firearm prohibition as a result of an incident that occurred on Aug 12 2020- Aug 17 2020. . (S284004 attached Exhibit C)

(See also section C and D on appeal brief S284004 Pg 15)

IV:DISCUSSION AND ARGUMENTS is on appeal brief S284004 pg 19)

A:5th District Appeal court in error and abuse discretion when failed to review the trial court a decision on order of dismissal after leave to amend granted on civil rights violation For HHSA and Lupe, for the reason the plaintiff fails to amend within the time allowed: (See S284004 appeal brief pgs 13 and 15)

5th district appeal court, in error and abuse discretion when failed to find that the trial court entered judgment of dismissal on november 14 2022 was abuse discretion and denial of The right to amend was improper when it is legally possible. The decision to order a dismissal after leave to

amend is granted but the plaintiff fails to amend within the time allowed is also reviewed for abuse of discretion. (See **Cano v. Glover (2006) 143 Cal.App.4th 326, 329.**). The abuse of discretion standard applies to a trial court's denial of leave to amend. (**Schifando v. City of Los Angeles (2003) 31 Cal.4th 1074, 1081.**)

Lower courts failed to consider Appellant Good cause to amend SAC for the reasons provided as First, Second:(See record on appeal pgs 1101- 1104) **Third:** "(see record on appeal pages 1065-1104) and attached **Exhibit A, C and D**(record on appeal pgs 1105,1068-108,1101- 1104), **Fourth:**(record on appeal pg 1397) , **Fifth:**(Record on appeal pgs1395) , **Sixth:** (**Record on appeal pgs 1242-1269**) **Seventh:**" (See S284004 appeal brief on pgs 20-22)

Per 5th district own citation " amended complaint superseded the earlier version, "which cease[d] to perform any function as a pleading." (**Meyer v. State Board of Equalization (1954) 42 Cal.2d 376, 384; accord, Foreman & Clark Corp. v. Fallon (1971) 3 Cal.3d 875, 884** ["Such amended pleading supplants all prior complaints"]

"Where the demurrer was sustained without leave to amend, we consider whether the plaintiff could cure the defect by an amendment. The plaintiff bears the burden of proving an amendment could cure the defect." (**T.H. v. Novartis Pharmaceuticals Corp., 17. supra, 4 Cal.5th at p. 162.**)

The abuse of discretion standard applies to a trial court's denial of leave to amend. (**Schifando v. City of Los Angeles (2003) 31 Cal.4th 1074, 1081.**) The decision to order a dismissal after leave to amend is granted but the plaintiff fails to amend within the time allowed is also reviewed for abuse of discretion. (See **Cano v. Glover (2006) 143 Cal.App.4th 326, 329.**)

5th District appeal in error and abuse discretion when failed to find trial court abuse discretion in denying amendments : (See S284004 appeal brief on pgs 22-23)

The policy of freely granting leave to amend should be applied with "extreme liberality." ***DCD Programs, Ltd. v. Leighton, 833 F.2d 183, 186 (9th Cir. 1987).*** " **Webb,655 F.2d at 979 (citing Rosenberg Brothers Co. v. Arnold,283 F.2d 406 (9th Cir. 1960) (per curiam)).**

.Appellant motion for reconsideration and leave to amend request was proper, not in bad faith, not to cause undue delay an not prejudice to the opposing party.

"outright refusal to grant the leave without any justifying reason appearing for the denial is not an exercise of discretion; it is merely abuse of that discretion and inconsistent with the spirit of the Federal Rules." **Foman v. Davis, 371 U.S. 178, 182,83 S.Ct. 227, 230,9 L.Ed.2d 222 (1962).**

B: 5th District Court in error and abuse discretion when consider Claims Against the "County" And "Health care Provider" Defendants Require Tort Compliance

under State Law: (See arguments and facts S284004 appeal brief on pgs 23)

1- Exemption From Tort Compliance: (See arguments and facts on S284004 appeal brief on pgs 23)

A:5th district court in error and abuse discretion when failing to consider Federal civil rights violation claims are not subject to California's tort claim requirements because such would violate the supremacy clause of the U.S. Constitution. Williams v. Horvath, 16 Cal.3d 834, 842 (1976)(See SAC (15) cause of action "Defendants In Violation 42 U.S Code § 1983-." Claim provision of section 911.2 is inoperative in an action brought under section 1983. Thus the fact that Appellant in the case at bar did not allege compliance with this provision is irrelevant to appellant claim under the Civil Rights Act. 5th District and Trial court erroneously sustained defendants' demurrer because of their belief that a claim within 100 days was necessary. Therefore Appellant is seeking to overrule demurrer and reverse the judgment of dismissal for all the defendants:(See arguments and facts S284004 appeal brief on pgs 23 - 26)

1-The narrow question presented on appeal is whether 42 U.S.C. § 1983 claims brought in California have no requirement for the filing of claims.

. Claim under the Civil Rights Act, whether brought in federal or state court, does not require compliance with the claims statutes heretofore discussed. (See *Williams v. Horvath* (1976) 16 Cal. 3d 834, 842 [129 Cal. Rptr. 453, 548 P.2d 1125]; *Donovan v. Reinbold* (9th Cir. 1970) 433 F.2d 738.)

5th District appeal Court is in error, abuse discretion when failed to established that trial court make an errors and abuse discretion when failed to recognize all causes of action against all defendants stemmed from the unlawful application of Welfare code in violation of constitutional right (section 1983) that gives rise to a cause of action for damages consequent upon unconstitutional conduct and that the Appellant constitutionally protected rights have been invaded and the trial courts failed to adjust their remedies so as to grant the necessary relief.Complaint states a federal cause of action under the **Fourth,fourteenth Amendment** for which damages are recoverable upon proof of injuries resulting from the defendants for the violation of that Amendment without presenting government [tort] claim.

"where federally protected rights have been invaded, it has been the rule from the beginning that courts will be alert to adjust their remedies so as to grant the necessary relief." *Bell v. Hood*, 327 U. S. at 327 U. S. 684 (footnote omitted); see *Bemis Bros. Bag Co. v. United States*, 289 U. S. 28, 289 U. S. 36 (1933) (Cardozo, J.); *The Western Maid*, 257 U. S. 419, 257 U. S. 433 (1922) (Holmes, J.). In this case there is violation of constitutional right that gives rise to a cause of action for damages consequent upon his unconstitutional conduct. In *Bell v. Hood*, 327 U. S. 678 (1946).

This case is based on action carried out between the Aug 12 2020 -17 2020 incident. where all the defendants were involved in Unlawful search and seizure of plaintiff without a warrant, and unreasonable force was employed to maintain seizure and search. In Addition there was no imminent danger or emergency situation or valid probable cause for unlawful application of 5150.

Appellant state a claim that is legal sufficiency under section 1983 and the ADA as determined by federal law. (**See Arce v. Childrens Hospital Los Angeles (2012) 211 Cal.App.4th 1455, 1471; Bach v. County of Butte (1983) 147 Cal.App.3d 554, 563.**) Appellant pleading contains a reasonable and plain statement of the claims showing the pleader is entitled to relief and a demand for the relief sought that is plausible on its face. (**California's. Rule 8(a) of the Federal Rules of Civil Procedure (28 U.S.C.).** Appellant met facial plausibility standard 'when appellant pleads factual content that allows the court to draw the reasonable inference that the defendants are liable for the misconduct alleged.' " (**Martinez v. City of Clovis, supra, 90 Cal.App.5th at p. 254, quoting Ashcroft v. Iqbal (2009) 556 U.S. 662, 678.**) However .Federal law differs from the California approach insofar as "a pro se complaint, 'however inartfully pleaded,' must be held to 'less stringent standards than formal pleadings drafted by lawyers.' " (**Estelle v. Gamble (1976) 429 U.S. 97, 106.**)

.Trial court and appeal court in error, abuse discretion and showed bias toward muslim minority proper litigants when failed to determine on their judicial experience and common sense that appellant claim is plausible (**Martinez, at p. 254.**)

2, 5th District Appeal Court in error and abuse Discretion when failed to find trial court in error and abuse discretion when not provided attorney fees, declaratory and injunctive relief Appellant:
(See arguments and facts S284004 appeal brief on pgs 26-27)

Under the Civil Rights Attorney's Fees Awards Act of 1976, plaintiffs who win their Section 1983 case are also entitled to attorney's fees.

We cannot emphasize enough that in granting this motion, the purpose is not to saddle the losing party with the financial burden in order to punish him, rather we shift the financial burden in order to effectuate a strong Congressional policy. **Accord Mills, 396 U.S. at 396-397, 90 S. Ct. 616. Id. 57 F.R.D. at 102. Rights** protected by the fourth amendment ranked at least as high on our social value as the rights of stockholders defrauded by misleading proxies. **Bivens, 403 U.S. at 411, 91 S. Ct. 1999. See J. I. Case v. Borak, supra, giving private damage remedy, and Mills, supra, awarding** attorney's fees as costs thereby insuring that the right of action given in *J. I. Case Co.*, will in fact be brought.

3-5th District appeal Court in error and abuse discretion when gave biased opinion "As a general rule, no suit for money or damages may be brought against a public entity""and further failed to provide relief with the reasoning "Besides seeking "general economic and noneconomic damages," "special damages," and "civil penalties," the complaint includes a lengthy section on punitive damages." and that . The pursuit of monetary recovery is more than "incidental" to plaintiff's requests for injunctive relief." ((See arguments and facts S284004 appeal brief on pgs pg 27 and 28)

However Appellant complaint states a cause of action under the Fourth Amendment, therefore is entitled to recover money damages for any injuries she has suffered as a result of the defendant's violation of the Section 1983 It is also well settled that, where legal rights have been invaded, and a federal statute provides for a general right to sue for such invasion,Section 1983 authorizes the imposition of liability "in an action at law, suit in equity, or other proper proceeding for redress.(See detail arguments and facts S284004 appeal brief on pgs 27-30)

Under Section 1983 of the United States Code, Citizens may collect money damages for being deprived of any of their rights under the Constitution or Federal law.. In the case, According to federal law, the appellant is allowed to receive money damages, and even have your attorney's fees paid as the appellant is the victim of an illegal search and seizure with malice intent.Appellant is seeking compensatory damages as appellant lost her dental license **Compensatory (special and general) Damages for Property Damage** because of 5150 incident raised question regarding appellate competency to work as a dentist.

Appellant is entitled for money damages for being deprived of any of their rights under the Constitution or Federal law. Including compensatory damages for harm to appellant, punitive damages, and additional "compensat[ory]" damages for violations of constitutional rights.

The basic purpose of § 1983 damages is "to *compensate persons for injuries* that are caused by the deprivation of constitutional rights." ***Carey v. Piphus*, 435 U.S. 247, 254, *Bivens v. Six Unknown Fed. Narcotics Agents*, 403 U.S. 388 (1971)**

See also ***Carey v. Piphus, supra***, at 264 mental and emotional distress constitute compensable injury in § 1983 cases.

.The full range of common-law remedies "at law" and "in equity" is available to a plaintiff asserting a claim under § 1983. Legal relief may take the form of nominal, compensatory, and punitive damages. (**See Memphis Community School District v. Stachura**, the Supreme Court).

4: 5th district appeal court acknowledged "Plaintiff's opening brief also contends that "[e]quitable[.] [i]njunctive and declaratory relief requested in FAC is exempt from tort-compliant requirements." however in error abuse discretion when failed to provide relief by stating :This undeveloped argument fails to demonstrate reversible error". (See arguments and facts S284004 appeal brief on pgs 30-31)

5th district appeal Court opinion agreed "the general rule [is] that the claims statutes do not impose any requirements for non pecuniary actions, such as those seeking injunctive, specific or declaratory relief." (**Loehr v. Ventura County Community College Dist. (1983) 147 Cal.App.3d 1071, 1081.**)

Appellant is entitled to recover pain and suffering, emotional trauma , diminish quality of life, loss wages, Physical Damage To property owned by the appellant in the form of loss of dental license(monetary recovery)which is "incidental" or directly linked to the incident in question and clearly quantifiable and included when defining pecuniary damages.Appellant is seeking (declaratory, injunctive relief) expungement of permanent fraudulent medical records prepared by the defendants without consent during force confinement in violation of Section 1983 on Aug 12-20- Aug 12 2020 .

The plaintiff alleges she "has sustained and continues to sustain a substantial loss in past, present, and future earnings, career opportunities, bonuses, and other employment benefits" because of defendants' allegedly tortious conduct due to violation of her **1st,14, and 4th amendment constitution right under 42 U.S.C. § 1983** , which creates "'a species of tort liability' in favor of Appellant .

5. 5th district Appeal court in error and biased when conclude that demurrer was not erroneously sustained on 16th cause of action, "Civil Harassment Ca Civ, Code 527.6" where tortious conduct due to violation of appellant constitution right under 42 U.S.C. § 1983 , creates "'a species of tort liability' in favor of Appellant .5th district court in error when failing to recognize appellant in the complaint desires relief for wrongful underlying conduct, such as tort damages(Olson v. Doe (2022) 12 Cal.5th 669, 673.**) and demurrer was erroneously sustained. (See arguments and facts S284004 appeal brief on pg 30 and 31)**

Appellant demonstrate in the complaint both that the claim is legally sufficient and that there is sufficient evidence to establish a prima facie case with respect to the claim. 5th district appeal court failed to determine procedural default does not bar **suit under 42 U.S.C. § 1983 or attempt to chill Appellant exercise of right given under the United States or California Constitution and right to petition the courts and the executive branch for redress of grievances.**

Seeking injunctive relief under section 527.6 does not mean that a petitioner waives the right to separately seek such other remedies. (Stats. 1978, ch. 1307, § 2, subd. (j), p. 4296; see § 527.6, subd. (w).)

5th district appeal court failed to find defects can be cured thru amendment(if any) and sustaining demurrer without leave to amend from trial court was in error and abuse of discretion. Appellant is allowed relief in connection with the same underlying conduct, such as tort damages, and filed in the complaint properly and separately.

The cause of action under section 527.6. is not subject to the claim presentation requirement of the Government Claims Act. (See **Olson v. Doe (2022) 12 Cal.5th 669, 673.**) .In addition, trial Trial court failed to provide injunctive relief to prevent threatened future harm instead sustain demurrer.

5th district appeal court is in error and abuse discretion when failed to consider exemption when exemption is within the scope to matters concerning the receipt of government benefits in the context of a welfare program and has relevance to plaintiff's claims . Government Code section 905 clearly recognizes claims for services, provisions, or other assistance rendered for or on behalf of any recipient of any form of public assistance. Government Code section 905 recognizes an exception for causes of action arising from, or having some connection to, matters governed by the Welfare and Institutions Code and were exempt from the Tort compliance requirement. Exemption alleged in appellate pleadings is applicable as a matter of law. (Under Government Code section 905, subdivision (e))

7: 5th court further confirms amendment of the complaint can cure the defect if leave to amend.Since there was reasonable likelihood that appellant could have amended the complaint to state a properly pleaded cause of action, the trial court was incorrect in sustaining the demurrer without leave to amend. See arguments and facts S284004 appeal brief pgs 31-34- Argument and facts section 6 & 7)

C:5th District Court is in error and abuse discretion concluding Appellant Claims Are Time-Barred :(See arguments and facts S284004 appeal brief pgs 32-42)

Complaint filed in this case within the statute of limitation.Complaint was filed initially in may 2022. Incident occurred between Aug 12 2020- Aug 17 2020. 5th district judges confirm „ her claims accrued approximately one year and eight months prior to the filing of this lawsuit in May 2022.” but in error, abused discretion and showed bias when failed to apply the most appropriate s Personal injury statute of limitation to

§ 1983 claim.Owens v. Okure, 488 U.S. 235 (1989)

.Claim is not time barred and within 2 years statute of limitation. . Plaintiffs assert that All Causes of Actions are based on plaintiff Personal injury arises out of Defendants deceitful intentional conduct of violating appeals civil right , 4th and 1st amendment violation by unlawful application of 5150. (see **Wilson v. Garcia, 471 U.S. 261 (1985)**

.In order to determine the most "most appropriate" or "most analogous"appellant statute to apply to the appellant claim, questions must be answered if the appellant provides consent to treatment and if there is any legitimate or lawful dr-pt relationship established between pt and Health care provider. .Defendants healthcare provide were not working within scope of their license as a health care providers in this case under section 425.13 as they are not licensed to provide the services in the manner alleged.Defendant acted outside the scope of the Medical license. **Appellant alleges harmful or offensive touching without permission, a battery statute of limitation is 2 years.** Appellant Claim not arrived from negligence of professional services as there is no consent from appellant or her family. Defendants are not licensed to perform involuntary confinement or false imprisonments based on false, fraudulent and Unlawfully declared plaintiffs gravely disabled when there was no emergency exist or no probable cause for declaring appellant gravely disabled . **[Schoendorff v. Society of New York Hosp., 105 N.E. 92, 93 (N.Y. 1914)**

.Court must characterize the essence of the claim in this case is based on **personal injury**, battery, intentional infliction of emotional distress, California Code of Civil Procedure section 335.1 due to civil right violation and fraud.

.Unlawful establishment of plaintiffs a gravely disabled caused plaintiffs personal injury, have tort liability. Defendant's actions were not just reckless but engaged in an intentional tort .

A, To impede court proceedings by discredit court witness in Altura case VCu276991 in OSHA and HIPPA Violation matter involving public policy violations.

B, stopped the internal investigation of the Police Department for covering up crimes against muslim minority and court witnesses.

The court determined that the true statute of limitations for cases arising under section 1983 in California was the **general three-year period** for actions based on "a liability created by statute." (**Code Civ. Proc., § 338, subd. 1.**) .Incident occurred between Aug 12-17 2020, **Smith v. Cremins (9th Cir. 1962) 308 F.2d 187 [98 A.L.R.2d 1154]**,(**Code Civ. Proc., § 338, subd. 1.**) .see also **Donovan v. Reinbold (9th Cir. 1970) 433 F.2d 738**

Plaintiff alleges intentional misconduct in violation of civil claim 1983 . Malpractice claim does not apply here as Plaintiff is alleging fraud, oppression, and deliberate action to ignore the scope of the plaintiff's involvement or consent .**Smith, supra, 133 Cal.App.4th at p. 1514; Unruh-Haxton, supra, 162 Cal.App.4th at p. 353, 1987 case of Riese v. St. Mary's Hospital and Medical Center, the California Court of Appeal .**

In California, the statute of limitations for welfare fraud or any of the fraud offenses is 4 years from discovery. According to § 338 (d) of California's Code of Civil Procedure, the statute of limitations for fraud is defined as: Within **three years.**

, After false imprisonments Defendants health care provider further involved in unconsented involuntary, bad faith, malice intent administer treatment, misdiagnosis, forceful transfers, involvement in Osha violations, and forcefully administered of wrong medication (Heritage Oak and Defendant Benjamin) for unlawful purposes to create a fraudulent medical legal record, Therefore involved in unlawful practice of medicine beyond the scope of medical License. The plaintiff has alleged, "ultimate facts" showing an entitlement to exemplary damages. (**Clauson v. Superior Court (1998) 67 Cal.App.4th 1253, 1255.**)

5th district appeal court is in error on considering false imprisonment statue of limitation as 1 year. Since false imprisonment felony charges statute of limitations is generally subject to a three-year statute of limitations. Appellant requested injunctive relief as so far no charges pressed despite appellant request due to Visalia police department declined to file charges against defendants. Plaintiffs seeking injunctive relief from court to compel pressing charges.

When enacted in 1967, section 5150 of the LPS Act required only "reasonable cause" for detention. This section was amended in 1975 to require "probable cause" for detention, which suggests that the Legislature intended a standard similar to that for a warrantless arrest for a Penal Code violation. (**See Stats. 1975, ch. 960, § 2, p. 2243.)(Cf. Terry v. Ohio(1968) ; Cunha v. Superior Court (1970) 2 Cal.3d 352, 356 [85 Cal.Rptr. 160, 466 P.2d 704].**)

"No right is held more sacred, or is more carefully guarded, by the common law than the right of every individual to the possession and control of his own person, free from all restraint or interference of others, unless by clear and unquestionable authority of law." **Union Pac. R. Co. v. Botsford, 141 U. S. 250, 251 (1891).**

We have recently held that "the Fourth Amendment protects people, not places," **Katz v. United States, 389 U. S. 347, 351 (1967).**

Prosecutions are implicitly limited to district attorneys per California Penal Code § 739, which describes the "duty" of district attorneys to file charges after a judge finds grounds that an offense has been committed.

Every confinement of the person is an imprisonment, whether it be in a common prison or in a private house, or in the stocks, or even by forcibly detaining one in the public streets; and when a man is lawfully in a house, it is imprisonment to prevent him from leaving the room in which he is." **M. Newell, Law of Malicious Prosecution, False Imprisonment, and Abuse of Legal Process §2, p. 57 (1892) (footnotes omitted). See also 7 S. Speiser, C. Krause, & A. Gans, American Law of Torts §27:2, pp. 940–942 (1990).** We shall thus refer to the two torts together as false imprisonment. That tort provides the proper analogy to the cause of action asserted against the present respondents for the following reason: The sort of unlawful detention remediable by the tort of false imprisonment is detention *without legal process*, see, e.g., **W. Keeton, D. Dobbs, R. Keeton, & D. Owen, Prosser and Keeton on Law of Torts §11, p. 54, §119, pp. 885–886 (5th ed. 1984); 7 Speiser, *supra*, §27:2, at 943–944**, and the allegations before us arise from respondents' detention of petitioner *without legal process* in January 1994. They did not have a warrant for his arrest.

See "False imprisonment" " (Pen. Code, sec. 236.)" ". (Pen. Code, sec. 237.) "(see **See arguments and facts S284004 appeal brief pg 40**)" "imprisonment" of Mr. Prouty by defendant within the meaning of said section 236 relating to false imprisonment. **People v. Agnew, 16 Cal.2d 655, 659-60 (Cal. 1940) .**

.Plaintiff is asserting reasonable jury could find officer Iuma Fahoum conduct rises to the level of "evil motive or intent" or "reckless or callous indifference" to Plaintiff's rights. **Smith v. Wade, 461 U.S. 30, 56, 103 S.Ct. 1625, 75 L.Ed.2d 632 (1983).**

.In this case Plaintiff is alleging felony false imprisonment., it is generally subject to a **three-year** statute of limitations due to deceit, fraud.

Although Statute of limitation in this case is at least 2 years not 1 years.However for the sake of argument if Tolling apply correctly appellant is well within 1 year statute of limitation:(See arguments and facts S284004 appeal brief pgs 41)

A. Emergency Rule 9 is applicable :(See arguments and facts S284004 appeal brief pgs

41) Also, Section 1983 is exempt from government tort claim requirements is not applicable to the appellant statute of limitation.

Tolling of Statute Of limitation based on mental capacity applicable :(See arguments and facts S284004 appeal brief pg 41-42, record on appeal pgs 41-42)

1-5th district court is in error and abuses discretion when cited (Quoting Hsu v. Mt. Zion Hosp. (1968) 259 Cal.App.2d 562, 572-573.) The only question here is if appellant was allowed to bring lawsuit or court proceedings between June 2021- April 2022 due to mental competency. Trial court rulings confirm that judge hillman from department 7 stayed court proceedings between June 2021- April 2022 due to mental incompetency of appellant. Now 5th district belief, perception or showing confidence in appellant capability of transacting business and carrying out legal proceedings are speculation when evidence available proves that trial court barred appellant to proceed in the court due to mental competency.

2-5th district appeal court in error, showed bias, and abused discretion when making an opinion. "However, page 105 of the complaint alleges the psychiatrist who made the diagnosis also certified that she was able to continue practicing dentistry" however failed to find that these notes were provided to this honorable judge hillman .However no matter how much muslim women allege she is fit to practice dentistry and bring a psychiatrist note certifying above notion, in the end this honorable trial court ruled proceeding will STAY due to mental competency of appellant. It also confirms appellant was unable to proceed with the trial or court proceeding from June 2021 - April 2022 and cannot proceed with new case legal proceedings during that time and tolling applies. For any further confusion of 5th district regarding appellate diagnosis see Dr,Sievert Diagnosis "adjustment disorder "Jan 2022, April 2022.

5th district appeal court in error and abuse discretion when made opinion "Plaintiff's mental incapacity argument is not unclear from the pleadings and her appellate briefing.

3.In Addition, There was no one in reasonable mind willing to take Risk of being falsely imprisoned, illegal seizure and willing to create fraudulent medical record on them self for filing grievance on behalf of appellant against tulare county which shows pattern of inflicting violence for filing grievance , therefore tulare court is in error , biased and abuse discretion citing " **(Barragan v. County of Los Angeles (2010) 184 Cal.App.4th 1373, 1384.) as the situation** is not comparable to Tulare county lawless condition.

D. (See arguments and facts S284004 appeal brief 42-44)There are genuine issues of material fact as a matter of law that are ignored by the 5th district. HHSA employee Lupee was not a bystander or mere presence coincidentally at the scene(private residence of appellant) as a private person but on duty HHSA employee.Appellant has shown facts and Evidence of 5150 certification

that Lupe was acting under color of authority as a HHSA employee when fundamentally involved herself to actively personally willfully, participated in bad faith and conspired with VPD and Earnesto when unsolicited visit appellant house without a warrant with Police and ernesto on visalia police department request for the unlawful application of 5150 with the intent to participate in the conduct of violating appellant 4th,14th and 1st amendment right for filing grievances with the tulare county. *United Steelworkers of America v. Phelps Dodge Corp.*, 865 F.2d

1539, 1540 (9th Cir. 1989) (en banc). (Lupe HSA employee is aware that Filing grievance with tulare county or other government authority is not a criteria to declare a person gravely disabled/falsity and violation of first amendment *Anderson v. Creighton*, 483 U.S. 635, 640, 107 S.Ct. 3034, 97 L.Ed.2d 523 (1987).) (see paragraph 432 a-f of the FAC). Lupe andHHSA failed to document and performed her fiduciary duty to mandatory report violence and false application of 5150 and responsible for omission as a crisis worker. *Fayle v. Stapley*, 607 F.2d 858, 862 (9th Cir. 1979).

("[I]t is a violation of the Fourth Amendment for police to bring members of other third parties at the residence of plaintiff for execution of seizing of plaintiff and also show harm suffered is reputational injury. (. *Siegent v. Gilley*, 500 U.S. 226, 233-34,111 S.Ct. 1789, 114 L.Ed.2d 277 (1991).).Officer

Lupe fundamentally involved herself in the alleged **4th,14th amendment violation** when reached with police at private residence to provide affirmative physical support at the scene of the alleged violation and when she was aware of the plan to commit the alleged 4th violation or have reason to know thru 5150 certification of such a plan, but do not object. In this case. There was no *Court Order or warrants and seizure is based on unlawful of 5150 application by false declaring disgravely disabled in their hsa advisement in HSA words employee words* “Police are working against her “and appellant ”not using good judgment”. In Addition Lupe heard appellant inform people at scene that police are upset for asking oversight on the police department for not investigating crime and the police officer mentioning reasoning of 5150 is reporting crimes to Visalia police department. Plaintiff has explained how the defects (if any) could be cured by amendment, so reversible error shown.

.Gravely disability has a specific criteria, a person who doesn't have shelter and food, or person who is suicidal or threat to others. Certainly Reporting crime against muslim minorities or court witness to Law enforcement, requesting oversight on Visalia police department for investigating crime, calling 911 when confined without will or falsely imprisoned, talking to lawyer about lawsuit is not a criteria to declare a person gravely disabled..

“A person subjects another to the deprivation of a constitutional right, within the meaning of section 1983, if he does an affirmative act, participates in another's affirmative acts, or

omits to perform an act which he is legally required to do that causes the deprivation of which complaint is made.” *Preschooler II v. Clark County Sch. Bd. of Trs.*, 479 F.3d 1175, 1183 (9th Cir.2007) (quoting *Johnson v. Duffy*, 588 F.2d 740, 743 (9th Cir.1978))

A reasonable employee of HSA who specifically work in connection with crises worker team is expected to have knowledge of the law, criteria for application of 5150 and gravely disabled person instead of just rely on taking police instruction and support violating civil right *Gordon v. Degelmann*, 29 F.3d 295, 300 (7th Cir.1994)

. Personal contact between the plaintiff and the defendant is not required. See *Vikse v. Flaby*, 316 N.W.2d 276, 284 (Minn. 1982) officers were not “merely standing by” to keep the peace during eviction because it objectively appeared that officers sanctioned the eviction by being present at each step of the eviction and making an unsolicited visit to tenants in which an officer advised the tenants to leave *Dunn v. City of Elgin*, 347 F.3d 641, 649 (7th Cir.2003)

. There is no Action pending between HHSA employee Lupee or liability of HHSA and Tulare County based on Lupees Actions in Federal court proceedings in Eastern district court of Fresno Case No. 1:21-CV-00911-DAD-SKO. 11 --469-- 65. B, In addition, many causes of Action are different than federal cases including conspiracy, retaliation, defamation, false imprisonments, unprofessional conduct, fraud, medical malpractice, and vicarious liability.

E:Rehabilitation Act of 1973 (Rehabilitation Act) (29 U.S.C. § 794) (See arguments and facts S284004 appeal brief pgs 44-45)

1-. Plaintiff's purported 12th cause of action" is in FAC (paragraph 683-729) allege (perceived) qualifying disability or perceived (qualifying disability) and discrimination based on (perceived) qualifying disability.

2- 5th district appeal court is in error and abused discretion comparing appellate cases with (**K.M. ex rel. Bright v. Tustin Unified Sch. Dist. (9th Cir. 2013) 725 F.3d 1088, 1102.**)".as these two cases are not similarly situated cases and have not much similarities..

Appellant pleaded in FAC facts that appellant was denied access to file police report, oversight on police or file grievance with Tulare county due to her(perceived) **disability or** excluded from reaching 911 while at the hospital and with HSA on police and county interference. Appellant was denied and excluded to participate in service and benefits of the public entity services program in a manner available to persons who doesn't (perceived) disabled . Appellant was denied and excluded to participate in service and benefits of the public entity services program by not allowing her to exercise her civil right, denied her right to not consent, denied access to her personal phone. Appellant was treated differently when compared to any other person in similar situation due to her(perceived) **disability** .Appellant was denied and exclude meaningful access to leave from service or welfare program from hospital on her will and was treated differently when compared to any other person in

similar situation due to her(perceived) disability . Appellant has shown Defendants' denied services, programs, or activities access in a manner available to persons not perceived disabled or muslim minority.

Facts are the appellant did not want to get discriminated against and seek out the services of these parties when she consent, on her will, at the time and day when she scheduled not during false imprisonment. Appellant 2nd child born at Kaweah hospital and appellant received hospital services many times in the past based on her will and consent. Appellant has explained how the defects could be cured by amendment (if there is any defect) and , so error has been shown

3: .Lupe is not named as defendant in the(pending) federal case .InAddition appellant causes of action against Lupee and HHSA in this complaint is different from federal case.

F.TORT CLAIM REQUIREMENT: (See arguments and facts S284004 appeal brief pgs 46-54)

1-Although Compliance with the claim requirement is not a condition precedent to suing the defendants in this case as all causes stemmed **due to violation of her constitution right under 42 U.S.C. § 1983** , which creates "'a species of tort liability' in favor of Appellant .In Addition, Appellant alleges matter related to the provision of law under welfare code except from tort claim compliance)(see record on appeal pgs 538-539,554-607,550-551)

.5th district acknowledge" Neither Heritage Oaks Hospital nor Dr. Benjamin alleges governmental status" .

. 5th district appeal court is in error, biased and abuse discretion when considering contention and argument of Defendant Said "true and meritorious" that the status of Defendant Said as a resident doctor employee of Kaweah was a public employee, and claim is time barred due to reason for the Tort Claim requirement when at this stage no evidence produce to confirm his status as a government of tulare employee and that Filing a complaint against the resident doctor Said of Kaweah corporation required Tort compliance.

1,5th district appeal court in error and abused discretion when concluding "Plaintiff's complaint does not allege compliance". and falsely stated "It admits noncompliance" -Appellant demonstrates due diligence and compliance with the Tort act:(see record on appeal pgs 540-542)

The complaint alleges Plaintiff in compliance with the government tort act as she filed a claim with the public entity, City of Visalia of Tulare County. related to 5150 incidents and involving employees about Jan 13 21.

.5th district appeal court in error and abused discretion when reasoned filing claim with city of visalia instead of Tulare County did not count to satisfy the obligation of tort claim . 5th district in error and abused discretion when the inaccurately concluded claim was only for Visalia police officers and not other employees of the Visalia city or the County who were involved in the 5150 incident

.Plaintiff alleges that high ranking Tulare County officials knew about the unconstitutional acts committed by county officials.

.Appellant filed grievances against Heritage Oak on May 4 2022 to Lindsay.lopez@uhsinc.com, Director of clinical services at HeritageOak hospital .(see record on appeal pgs 260)

.Appellant filed Grievance against Hippa/ osha violations, discrimination and other unlawful acts of Kaweah staff on May 4 2022 to Cindy Moccio, the Board Clerk at Kaweah Health. Thru cmoccio@kaweahhealth.org and with Hipaa Compliance officer at jcotta@kaweahhealth.org.(see record on appeal pgs 261)

Beside the claim based on **Monell: 42 Usc Section 1983**. In the Ninth Circuit "a claim of municipal liability under section 1983 is sufficient to withstand a motion to dismiss even if the claim is based on nothing more than a bare allegation that the individual's officers' conduct conformed to official policy, custom or practice." **AE ex rel. Hernandez v. County of Tulare, 666 F.3d 631, 636 (9th Cir. 2012)**.

.Kaweah hospital representative upon inquiry to file grievances initially made an untruthful statement to Appellant that they are a private party and not part of Tulare county . Therefore appellant cannot file claim to tulare county or assume tort compliance required in 6 months or 1 years, when Kaweah hospital declined to be part of tulare county .However during court proceedings Kaweah hospital and their resident Dr counsel made an argument of tort compliance an issue in claim based on S1983.

2-5th District court in error and abuse discretion when failed to consider "Appellant demonstrated sufficient facts that suffices to excuse compliance and alleges good cause of excuse compliance facts excuse compliance to a government tort claim to the County of Tulare ". (See arguments and facts S284004 appeal brief pg 47-50)

Plaintiff shown a good and strong cause for relief to excuse compliance to claim tort act or Proper compliance with the claim statue (record on appeal pgs 539-541,552-607,657)

See Supreme Court S284004 file brief pg 48 for the filed grievance on **July 22 20, On 7-30-30, 8-5-20r** regarding the oversight on Visalia police misconduct and incidence of Aug 12 20 where Visalia police department retaliated with the use of excessive force by utilizing Visalia city employee lupee (HHSA) and violated appellant 1st, 14th and 4th amendment rights .

See statements and facts from **HHSA document -8-12-20**(record on appeal pgs 681-780) , **(notice of certification 5250)**Aug15-20(record on appeal pgs 683),**Visalia police report -51-50 20-068188-8/12/20** . (See arguments and facts S284004 appeal brief pg 48 and Exhibit B attached to it)

Plaintiff was left with no choice other than not to reach Tulare county or Visalia city with grievances after the **August 2020 violence** . Plaintiff filed Court Claim to safeguard herself from crimes of the City of Visalia and lupe: HHSA on May 4th 2022.

.Appellant excuse compliance establishes a good cause that any reasonable person after civil **right violation 4th,14th , 1st and 2st** amendment for presenting grievances to Tulare county would not reach to Tulare County for Tort compliance or filing grievance as. Tulare county was not interested in investigating grievances but tried to cover up by creating fraudulent record on appellant by violating civil rights .Public entity in this case will not be prejudiced with excuse compliance because tulare county prevented appellant to present claim thru civil right violation and not willing to investigate any way.

Plaintiffs contend in the first amended complaint states a cause of action for violation of Civil Code section 52.1. Section 52.1, also known as the **Tom Bane Civil Rights Act**, authorizes an action for injunctive and other equitable relief where a person, whether or not acting under color of law, interferes or attempts to interfere, "by threat, intimidation, or coercion," with the exercise or enjoyment by any individual or individuals of rights secured by state or federal law. (§ 52.1, subd. (a).).

3:Appellant content appellant claim filed Late claim about June 16 22 plaintiff herself filed a liability claim compliant with Tort act specificity with Visalia City, and the claim was denied by the City of Visalia .(**See arguments and facts S284004 appeal brief attached to Exhibit B**).

.However Evidence confirm appellant further show due diligence and compliance On Aug 16 22:

Plaintiff filed with The Court For an Order Relieving Plaintiffs From The Tort Claim

Requirements(9 pgs) along with **Exhibit A** showing Page 1: Motion stay granted on minute order June 9 21 in case vcu276991 where Samreen Riaz was a plaintiff. **Exhibit A** Page 2: Aug 21 minute order" matter is still stayed" in case vcu276991 where Samreen Riaz was a plaintiff . **Exhibit A** pg 3: May 19 22 minute order " Court lifts stay" in case vcu276991.However trial court showed biased and abuse authority when failed to produce record an Order Relieving

.Trial court is in error, abuse discretion and showed bias when not provide relief requested for a reason Trial court misplaced filed tort claim requirement relief documents (common practice and tactic often utilized to destroy resident claim against Tulare county employee /potential court corruption practices) . Trial care abuse of authority and negligence can further be confirmed by the trial court partial filing Only selective document of plaintiff "Opposition To Defendant Lupe, HHSA, Tulare County Demurrer to complaint"t argued. (see record on appeal pages 458-477, 514-533) but record missing proof of service. The reason for missing proof of service is that it would reflect filing of relief From The Tort Claim Requirements by the appellant . (**See arguments and facts S284004 appeal brief attached to Exhibit B**) .

Although Appellant claiming On June 16 22 plaintiff herself filed a liability claim compliant with Tort act specificity that provided adequate information to public entity to investigate and seattle as appropriate without expense to litigate, and the claim was denied by the public entity .However appellant filed late Claim judicial relief from :lateness just to show Due diligence (see record on appeal pg 542-545) (**See arguments and facts S284004 appeal brief pg 50 attached to Exhibit B**)

Appellate Petition to relief from late claim was filed on Aug 16 22. in a trial court to be heard on Sept 13 22 and served to all defendants. Although 5th district appeal court acknowledged petition " Government Code section 946.6 is entirely misplaced. ``See also pg 42 of opening brief filed on may 26 23.

See record on appeal pg 712 where Defendant Tulare County Counsel admitting late claim filing with the county by the appellant "I understand you filed an application to submit a late claim, but the application was submitted beyond the one year statutory time frame to do so. For this reason as well, the County should be dismissed from this lawsuit", defendant counsel further confirm "hearing date of September 13, 2022 at 8:30 a.m. in Department 7, has been reserved" on Jul 18, 2022 at 2:32 PM Amy Myers.

See also claim present on May 23 22 to public entity and denied on July 28 22. See also late claim presented on July 08 22 to public entity and denied on July 11 22. (**See arguments and facts S284004 appeal brief attached with Exhibit B**)

5th district court is in error stating "plaintiff never filed a Government Code section 946.6 petition with the trial court." 5th district court failed to conclude appellant filed a late claim is one year (id., § 911.4, subd. (b)), and meeting a prerequisite deadline to relief under Government Code section 946.6 (id., subd. (c)). See arguments and facts S284004 appeal brief pgs 50-53)

The Late claim filed within one year time period if tolling due to mental competency argument applies correctly .(tolling period applies from June 09 2021 - May 2022). Incident 5150 occurred between Aug 12 2020-17 2020.

However 5th district court in error, biased and abused discretion when found " Plaintiff did not meet this standard" to rely on" Government Code section 946.6 because Petition papers misplaced by the court staff is biased, abuse of discretion. Trial court corruption, negligence and bias is not muslim minorities' fault.(see facts discussed from motion to relief appellate from tort compliance in a FAC on pg 542-545).

"The purpose of the claims statutes is not to prevent surprise, but 'to provide the public entity sufficient information to enable it to adequately investigate claims and to settle them, if appropriate, without the expense of litigation.'" (**City of Stockton v. 23. Superior Court (2007) 42 Cal.4th 730, 738.**).

Defendant counsel letter confirms County was never interested in investigating claim and denied late claim just like many other attempts of appellant to investigate.

"denials of such relief by the trial court are scanned more carefully than cases where the court granted the relief, to the end that wherever possible cases may be heard on their merits, and any doubts which may exist should be resolved in favor of the application." (**Viles v. State of California (1967)** appellant showed due diligence and filed tort relief and late claim on Aug 16 2023. Appellant honest on untruthful statements of Kaweah believe is excusable.

. 5th District court in error and abuse discretion when failed to consider Appellant pleaded fact in FAC based on section 945.4, and on section 912 as well failed to consider appellant sought relief from trial court based on section 945.4, and on section 912 on Aug 16 22 thru motion to relief . Trial Court in error, biased and abused discretion when fail to make ruling on motion to relief from tort claim on Sept 13 22.

.In Motion.Appellant requested The Trial court shall make an independent determination upon The determination shall be made upon the basis of the petition, any affidavits in support of or in opposition to the petition, and any additional evidence received at the hearing on the petition."

1.Evidence confirms that appellant was threatened with violence for filing grievance in tulare county which qualifies appellant failure to claim was due to excusable neglect.(section 945.4(1)

2- Evidence confirm Appellant requested relief from trial court based on Section 912 based on Trial judge stayed the trial based on the motion stay granted for the reasoning appellant is unable to proceed in the court due to mental competency issue(August 2020 5150 incident) on minute order June 9 21 in case vcu276991 and Stay lifted in May 2022 minute order based on april testimony to court by sievert regarding psychological fitness of appellant

4- Appellate case in federal court against Tulare county has not been dismissed which further confirms appellant can pursue with the complaint. Federal complaint is based on both Section 1983 and along with supplemental state claims . However, the defendant name in this case is not named in the federal case and many causes of action here are different from the federal pending case. (record on appeal pgs 733-744)

5- Defendant Said M.D involved in tortious conduct of violation of appellant constitution right under 42 U.S.C. § 1983(exempt from Tort Claim requirement). Appellate court acknowledged that Defendant Said counsel contend that "Dr. Said was, at all times relevant to this action, a public employee employed by KHMC as a resident physician.". If we goes with the Defendant Said counsel contention regarding the Government status of Defendant and consider it true the reasons articulated above regarding 42 U.S.C. § 1983 is meritorious..5th district acknowledges "record supporting the alleged governmental status is a notation on the first page of KHMC's and Dr. Said's demurrer: "EXEMPT FROM FILING FEES [¶] [Gov. Code §6103]". However 5th district did not take a judicial notice of government status of the defendant sua sponte for the reason "We have not been asked to take judicial notice of their governmental status, nor does the record indicate such a request was made to the trial court.". In the presence of evidence of defendant counsel Said representations in their briefing, Appellant will move court to take judicial notice of the alleged facts public employee employed by KHMC as a resident physician. Therefore Dr.Said is not subject to the requirements of the Government Claims Act

G-5th district appeal court in error and abuse discretion when concluding plaintiff's challenge to the demurrer ruling is forfeited" on KHMC and Dr. Said, Heritage Oaks Hospital and Defendant. Benjamin's for demurrer was unopposed. See arguments and facts S284004 appeal brief pg 54-58)

-5th district in error and abuse discretion when failed to note that appellant filed notice of continuation for Oct 25th 22 hearing in a trial court with the reasoning that Appellant requested continuation of hearing for Oct 25 22 hearing and requested extension to file demurrer reply .(See record on appeal pgs 1101- 1104,11065-1104) on the basis that demurrer are challenged by the in the appellant in appeal court and that Health care defendant Demurrer were almost entirely based on the same previous demurrer that appellant challenged . However Trial court abuse discretion when giving tentative ruling knowing the appellant requested extension/continuance.and by overstepped appeal court provided a 20 days window to appellant. (see pg 44 of appeal brief in trial court).

-5th district in error and abuse discretion when failed to conclude that Appellant intent was challenging the demurrer and requested trial court to take **judicial notice of pending appeal challenging defendant demurrer and motion to strike and ruling of trial court.** (record on appeal pgs 1101-1104,1065-1066,1068)

In Addition appellant .Filed Motion to Reconsideration and to revoke order sustaining demurrs. (Record on appeal pgs 658-686, 650-702). However, the Trial Court failed to correct erroneous ruling despite request.

Evidence confirm appellant intent to challenge demurrer and ruling on demurrer. There is an evidence Appellant request extension to file reply to demurrer. .

“relevant matters that are properly the subject of judicial notice may be treated as having been pled”]; *Childs v. State of California* (1983) 144 Cal.App.3d 155, 162, 192 Cal.Rptr. 526

: Argument raised thru demurrer by the health care providers on FAC is for the sake of bringing demurrer without merit and on the same issue which was previously replied in demurrer and already answered in FAC as well. Arguments raised in the trial court cannot be forfeited on appeal. Appellant elected to stand on the FAC.

Appeal court failed to note that appellant challenged every demurrer ruling and demurrer either thru reply, filing interlocutory appeal in the 5th district court , writ in the supreme court and filed motion to reconsideration on demurrer ruling a.Appeal courtin error and abuse discretion when failed to review an order sustaining a demurrer de novo, exercising independent judgment as

to whether a cause of action has been stated in the fac as a matter of law. Appeal court in error and abuse discretion to note demurrer made in error and fac was legal sufficient. This case involves public funds utilized to discredit court witness in the case involved hipaa and Osha violation matter and involve matter of public importance.

The plaintiffs test the validity of the order sustaining the demurrer by filing an appeal from the ensuing judgment of dismissal.

When, as here, a demurrer to a complaint is sustained with leave to amend and the plaintiffs elect not to amend the complaint, the plaintiffs may test the validity of the order sustaining the demurrer by filing an appeal from the ensuing judgment of dismissal. (*County of Santa Clara v. Atlantic Richfield Co.* (2006) 137 Cal.App.4th 292, 312, 40 Cal.Rptr.3d 313; *Otworth v. Southern Pac. Transportation Co.* (1985) 166 Cal.App.3d 452, 457, 212 Cal.Rptr. 743.)

The appeal court is in error and abuse discretion when failed to consider demurrer on FAC were proper in the first place and the plaintiff does allege facts sufficient to state the derivative claim.

Appellant, FAC supports her claims with meaningful argument, discussion and citation to authority on a particular point, and cannot be treated as forfeited and passed without consideration. Appellant has furnished a legal argument with citation to authority on a particular point in a FAC and her trial and appeal briefs, therefore Trial or appellate court cannot treat the point as forfeited and pass it without consideration. Arguments of appellant are developed claims.

5th district appeal court is in error and abuse discretion

- .when failing to reverse the judgment based on demurrer without leave to amend, when the trial court's legal rulings are incorrect when a different result would be obtained
- .when failed to determine that trial court was in error and abuse discretion sustained demurrer without leave to amend where the nature of the plaintiff's claim in FAC is clear, and under substantive law, liability exists.
- .when failed to give the complaint a reasonable interpretation. Appellate courts assume the truth of contentions, deductions, or conclusions of law based on selective judicial notice and biased narration on those selective notices. (*Aubry v. Tri-City Hospital Dist.* (1992) 2 Cal.4th 962, 966-967 [9 Cal.Rptr.2d 92, 831 P.2d 317].)

VERIFICATION:

I am Petitioner Samreen Riaz in this case. I have read the above declaration filed with the opening Petition and know its contents. The facts alleged in the Declaration are within my own knowledge, and I know these facts to be true. I declare under penalty of perjury that the foregoing is true and correct and that

This verification was executed on the **29th day of May 2024** in Visalia, California.

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Samreen Riaz

Dated: 29th day of May 2024

Conclusion: In Conclusion, Petition requesting following prayer for relief and reverse to the following orders:

Denying Petition (S284004) dated May 1st 24 , Denying petition rehearing (F085325). on March 1 24 (filed on Feb 29 24) given on Jan 31 24, Reverse Opinion given by the 5th district court on Jan 31 24 and Oct 25 22 ruling from the Superior Court of Tulare County vcu291575. Provide injunctive and declaratory relief seeking in a FAC and Appellant brief such as expunge fraudulent unconsented created on appellant , compel law enforcement to investigate and press charges parties involved in civil rights violation in the incident 5150 and issue restraining order against defendant involved in civil right violations. .The appellant request to remove false statements of 5th district judges that were associated with appellant by taking sua sponte judicial notice as mentioned in a petition. The appellant request to review and accept appellant motion to augment record made to 5th district appeal court in this case.

Other Harm occurred:

.Deprived Plaintiff right to meaningful self-representation on Altura case and violation of first amendment right and delayed justice, Plaintiff credibility has been questioned and negatively impacted Altura(public interest harmed thru obstruction of justice) case outcome.Altura is a beneficiary of unlawful (pretextual) (**Smith v. Wade, 461 U.S. 30, 56, 103 S.Ct. 1625, 75 L.Ed.2d 632 (1983)**) 5150 applications . Plaintiff lost her property in the form of DEA and Dental license as DBCA raised questions on plaintiff mental competency as a result of unlawful application 5150 .(Pursuant to evidence code S452(c)(d) Plaintiff, requests the court to take judicial Riaz vs Altura

. Plaintiff automatically lost the right to bear firearms due to unlawful application of 5150.Left the plaintiff open to violence if any crime occurred to her family un-reported and uninvestigated. More than 171 pgs Fradulat record prepared without plaintiff consent during illegal seizure and confinement by defendant caused plaintiff reputational harm,emotional distress, economical loss and administration of wrong treatment. (**Juliani vs Ruby freemen**).Plaintiff was separated from her minor kids and interfered with the plaintiff right of family association and should properly be assessed under the 4th and Fourteenth Amendment standard for interference with the right to family association.

Campbell v. Burt, 141 F.3d 927 (9th Cir. 1998); Ram v. Rubin, 118 F.3d 1306, 1310 (9thCir. 1997). Plaintiff 1st, 2nd, Fourth, Seventh and Fourteenth Amendment rights violated .