

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**JANE DOE,**

**Case No. \_\_\_\_\_**

**Plaintiff,**

**COMPLAINT**

**-vs-**

**Jury Trial Requested**

**ROBERT N. FINSTER, ERIC LUTHER, AMY BIRD,  
KELLY AVALLONE, the HARRISVILLE CENTRAL  
SCHOOL DISTRICT, and the BOARD OF  
EDUCATION OF THE HARRISVILLE CENTRAL  
SCHOOL DISTRICT,**

**Defendants.**

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Plaintiff, Jane Doe (hereinafter “Jane Doe”, “Plaintiff,” or “Jane”), by her attorneys Costello, Cooney & Fearon, PLLC, alleges the following against the above-named Defendants:

**JURISDICTION**

1. This action is brought pursuant to 42 U.S.C. § 1983, 42 U.S.C. § 1988, Title IX of the Education Amendments, 20 U.S.C. § 1681, and the Fourth and Fourteenth Amendments to the United States Constitution. The Plaintiff also invokes this Court’s supplemental jurisdiction to assert common law claims for assault, battery, false imprisonment, reckless failure to train, intentional infliction of emotional distress, negligence, negligent failure to train, negligent infliction of emotional distress, and prima facie tort.

2. The jurisdiction of this Court is invoked under 28 U.S.C. § 1331, 28 U.S.C. § 1343(a)(3), and 28 U.S.C. § 1367(a).

3. Plaintiff complied with all applicable Notice of Claim requirements governed by New York State law, including New York State Education Law § 3813, by serving a timely and valid Notice of

Claim upon the Board of Education of the Harrisville Central School District. A copy of Plaintiff's Notice of Claim, along with proof of service is attached as **Exhibit "A"**.

4. On May 16, 2016, Plaintiff provided sworn testimony pursuant to General Municipal Law § 50-h.

#### **VENUE**

5. Venue is proper pursuant to 28 U.S.C. § 1391(b)(1) and (2).

#### **PARTIES**

6. Jane Doe, is a pseudonym for a female whose name is kept confidential as a victim of sexual assault as set forth herein pursuant to N.D.N.Y. Local Rule 8.1(6).

7. At all times relevant, Jane Doe was a natural person residing in Harrisville, New York, and a student of the Harrisville Central School District.

8. Upon information and belief, at all times relevant, Defendant ROBERT N. FINSTER was employed by the Harrisville Central School District as the Superintendent of Schools.

9. Upon information and belief, at all times relevant, Defendant Finster was acting in his individual and/or official capacity under the color of state law and within the scope of his employment.

10. Upon information and belief, at all times relevant, Defendant ERIC LUTHER was employed by the Harrisville Central School District as Principal of the Harrisville Middle/High School.

11. Upon information and belief, at all times relevant, Defendant Luther was acting in his individual and/or official capacity under the color of state law and within his employment.

12. Upon information and belief, at all times relevant, Defendant AMY BIRD was employed by the Harrisville Central School District as Principal of the Harrisville Elementary School.

13. Upon information and belief, at all times relevant, Defendant Bird was acting in her individual and/or official capacity under the color of state law and within the scope of her employment.

14. Upon information and belief, at all times relevant, Defendant KELLY AVALLONE was employed as a school nurse by the Harrisville Central School District.

15. Upon information and belief, at all times relevant, Defendant Avallone was acting in her individual and/or official capacity under the color of state law and within the scope of her employment.

16. Upon information and belief, at all times relevant, the HARRISVILLE CENTRAL SCHOOL DISTRICT (“the District”) was a governmental entity authorized under New York State Education Law, with its principal place of business at 14371 Pirate Lane, Harrisville, New York.

17. Upon information and belief, the BOARD OF EDUCATION OF THE HARRISVILLE CENTRAL SCHOOL DISTRICT (“the Board”) is the duly constituted governing body responsible for the District.

18. All of the acts herein alleged to have been committed by the individual Defendants were committed in the course of their employment by the District and the District is liable for their acts under *respondeat superior*.

### **FACTUAL ALLEGATIONS**

19. Plaintiff was a student in the Harrisville Central School District from 2014 until 2016.

20. On December 11, 2015, Jane arrived at the High School like any other typical day.

21. At approximately 8:05 a.m. that morning, Defendant Luther sought out Jane in the hall and asked her to “*go for a walk with him.*” He proceeded to take her to his office.

22. As they were walking, Mr. Luther offered no explanation of why he was taking Jane to the main office.

23. After arriving at the main office, Jane saw two members of the New York State Police standing conspicuously near the office entrance.

24. Mr. Luther led Jane through the main office into his personal office.

25. Inside Mr. Luther's office were Defendants Finster and Bird.

26. Jane was told to take a seat. She complied, still unaware of why she had been removed from her normal routine.

27. The door to Mr. Luther's office was closed.

28. The statements and actions of the Defendants made it clear to Jane she was not free to leave Defendant Luther's office.

29. Jane was finally told she had been accused by three other students of possessing drugs.

30. The students' purported accusations against Jane were false.

31. Jane asked which students made the false accusations against her, but Defendant Luther refused to tell her.

32. Jane vigorously insisted to Defendant Luther and the other administrators that the purported accusations were false and she denied possessing any drugs. She also offered her backpack to Defendant Luther and said she would consent to let him search it in her presence.

33. Defendant Luther declined Jane's invitation to search her backpack.

34. Instead, Defendant Luther stated *"okay, I'm going to get you a spare change of clothes, and you're going to change into them, because we're going to search your clothes."*

35. Defendants Luther and Finster then left the office. When they returned, Defendant Luther stated he had found other clothes for Jane.

36. Defendants Luther and Bird then took Jane across the hall to the school nurse's office.

37. Jane was ordered to leave her backpack in Defendant Luther's office.

38. The school nurse, Defendant Avallone, was waiting for Jane in her office.

39. Defendant Luther handed a spare set of clothes to Defendant Avallone.

40. Jane was led into a medical examination room connected to the nurse's office.

41. Jane was ordered to begin removing her clothing.

42. Defendant Avallone and Defendant Bird stood inside the examination room after the door was closed.

43. Again, it was made clear to Jane by the actions of Defendants Avallone and Bird that she was not free to leave the nurse's office.

44. Jane was told that she would undergo a "*strip search*."

45. Jane was forced to remove her clothes.

46. Jane was ordered to disrobe completely. She began by removing her shirt and bra.

47. Jane was then forced to hand over her shirt and bra to Defendants Avallone and Bird.

48. Although Defendant Avallone had a spare change of clothes in the medical examination room, she did not offer them to Jane.

49. Jane was forced to stand exposed for several minutes while Defendants Avallone and Bird inspected her shirt and bra.

50. Jane was also forced to remove and hand over her boots, pants, and underwear, all of which were also closely inspected by Defendants Avallone and Bird.

51. No drugs, contraband, or any other prohibited substances were located in any of Jane's clothes.

52. After the inspection of Jane's clothes was complete, Defendant Avallone looked at Defendant Bird and asked her about a "*rectal exam*."

53. Jane overheard Defendant Bird and immediately said "*no*."

54. Jane clearly indicated to Defendants Bird and Avallone that she was not willing to undergo a rectal exam.

55. Scared and disturbed by the mention of a rectal exam, Jane pleaded to Defendants Avallone and Bird to let her urinate in a toilet to prove she was not concealing anything in her rectum.

56. Defendant Avallone briefly left the examination room. Defendant Bird stated to Jane that if she "*put anything up there*" there would be a "*serious problem*."

57. Defendant Avallone returned to the examination room, carrying a glove and flashlight.

58. Jane was then brought into a small bathroom connected to the examination room.

59. Defendant Avallone watched as Jane urinated into the toilet. Jane was able to urinate normally.

60. Defendant Avallone ordered Jane to "*turn around*." Jane protested and said "*no!*"

61. Defendant Avallone repeated the order in a harsh tone of voice and Jane felt she had no choice but to comply with Defendant Avallone's order.

62. Although she was aware of what **was** occurring, Defendant Bird made no attempt whatsoever to stop Defendant Avallone from conducting a rectal exam.

63. Defendant Avallone ordered Jane to "*bend over*." She then pried Jane's buttocks apart with her hand, exposing Jane's rectal cavity.

64. Defendant Avallone shined the flashlight into Jane's open rectum.

65. There was absolutely nothing concealed in Jane's rectal cavity.

66. Defendant Avallone then ordered Jane to "*turn around*."

67. Defendant Avallone ordered Jane to expose her vagina for examination.

68. Although Defendant Bird was aware of what was occurring, she made absolutely no attempt whatsoever to stop Defendant Avallone from conducting a vaginal exam.

69. Using her hand, Defendant Avallone pried apart the opening to Jane's vagina and shined her flashlight inside.

70. During the vaginal examination, Defendant Avallone laughed at Jane and stated "*this is a first for Harrisville.*"

71. Again, there was absolutely nothing concealed in Jane's vagina.

72. Finally, Jane was given back her own clothes and permitted to dress.

73. While she was dressing, Jane requested an opportunity to make a telephone call to her father.

74. Defendant Bird said "*no,*" denying Jane's request without explanation.

75. The shameful treatment and embarrassment that Jane was forced to endure in the nurse's office lasted approximately one (1) hour and 20 minutes from beginning to end.

76. When Defendant Luther returned Jane's backpack to her, Jane noticed that her belongings inside had been re-arranged.

77. Jane asked Defendant Luther if he had searched the backpack. He admitted to doing so without being in her presence.

78. Before finally dismissing her, Defendant Luther told Jane "*stop having your name associated with people with drugs,*" or words to that effect.

79. Jane pleaded with Defendant Luther to give her more information about who falsely accused her and what they said about her, but Defendant Luther flatly refused to provide any information about the accusations against her.

80. Defendant Luther simply responded with "*again, stop having your name being brought to my office.*"

81. After being dismissed by Defendant Luther, Jane was given bus transportation to BOCES to join the class she was missing.

82. Jane was not offered a counselor or any other form of emotional support after her ordeal. Rather, she was simply put onto a school bus and told to proceed to her class at BOCES.

83. The severe emotional toll of the morning's events left Jane extremely upset, so she eventually requested to leave school early for the day.

84. Jane missed several days of school due to her ongoing emotional distress resulting from this incident.

**FIRST CAUSE OF ACTION**  
**AGAINST ALL DEFENDANTS**  
**FOR UNREASONABLE SEARCH**

85. Plaintiff restates and realleges paragraphs "1" through "84".

86. The Defendants lacked probable cause or a reasonable suspicion to believe Jane was in possession of drugs or any other form of prohibited contraband on the morning of December 11, 2015.

87. Before December 11, 2015, Jane had never been charged or convicted of any crime.

88. Defendants, acting under color of law, ordered Jane to remove her clothing and forced her to stand in a humiliating state of undress while her clothing was examined.

89. Defendants, acting under color of law, further commanded Jane, in spite of her vigorous protests, to undergo a frightening, degrading, and de-humanizing body cavity search procedure.

90. Defendants' behavior toward Jane was objectively unreasonable, occurred without probable cause or reasonable suspicion, and represents a violation of the Fourth and Fourteenth Amendments of the United States Constitution, 42 U.S.C §1983 and the New York State Constitution, Article 1, § 12.

91. Because of the Defendants' unlawful search, Jane was made to suffer personal injuries, pain and suffering, severe mental anguish, emotional distress, humiliation, degradation, injury to reputation, permanent loss of natural psychological development, and other related harms.

92. Defendants are liable to Jane for compensatory damages, including non-economic and economic damages resulting from Defendant's violation of 42 U.S.C § 1983 and the New York State Constitution, Article 1, § 12.

93. Additionally, Defendants' actions were willful, wanton, malicious and oppressive, entitling Jane to punitive damages.

94. Jane is also entitled to the reasonable attorneys' fees, costs, disbursements, and other recoverable fees incurred in the prosecution of this action.

**SECOND CAUSE OF ACTION**  
**AGAINST ALL DEFENDANTS**  
**FOR FALSE ARREST**

95. Plaintiff restates and realleges paragraphs "1" through "94".

96. On the morning of December 11, 2015, Defendant Luther approached Jane in the hallway of the high school and directed her to "*go for a walk with him.*" Upon information and belief, Defendant Luther's order was mandatory. Defendant Luther's demeanor and tone of voice implied to Jane that she did not have the option of declining his order. Defendant Luther's actions diverted Jane from her normal daily schedule and routine as a student of Harrisville High School.

97. Defendant Luther walked Jane past two armed, uniformed members of the New York State Police, who were standing conspicuously at the door to the High School's main office.

98. Upon information and belief, the two armed officers were present at the Defendants' request, in order to facilitate Jane's confinement for the purpose of conducting searches on her person and property for drugs or other prohibited contraband.

99. Jane was kept confined in Defendant Luther's office against her will. She was thereafter led into the school nurse's office where she was further confined against her will.

100. The actions of the Defendants were intended to clearly communicate to Jane that she was not free to leave.

101. Defendants lacked probable cause or a reasonable suspicion to believe Jane was in possession of drugs or any other form of prohibited contraband on the morning of December 11, 2015.

102. Defendants' actions were objectively unreasonable, and represent a false arrest in violation of Jane's constitutional right to freedom from unreasonable seizures in violation of 42 U.S.C. § 1983 and New York State law.

103. Because of the Defendants' false arrest, Jane was made to suffer personal injuries, pain and suffering, severe mental anguish, emotional distress, humiliation, degradation, injury to reputation, permanent loss of natural psychological development, and other related harms.

104. Defendants are liable to Jane for compensatory damages, including non-economic and economic damages resulting from Defendant's violation of 42 U.S.C § 1983 and New York State law.

105. Additionally, defendants' actions were willful, wanton, malicious and oppressive, entitling Jane to punitive damages.

106. Jane is also entitled to the reasonable attorneys' fees, costs, disbursements, and other recoverable fees incurred in the prosecution of this action.

**THIRD CAUSE OF ACTION**  
**AGAINST DEFENDANTS AVALLONE AND BIRD**  
**FOR COMMON LAW ASSAULT**

107. Plaintiff restates and realleges paragraphs "1" through "106".

108. After finding absolutely no evidence of drugs or prohibited contraband in Jane's clothing, Defendant Avallone spoke to Defendant Bird, in Jane's presence, about conducting a "*rectal exam*."

109. Thereafter, Jane volunteered to urinate into a toilet to prove she had nothing concealed in her rectum. She was allowed to do so. Nevertheless, Defendant Avallone then suddenly ordered Jane to “*turn around*” and “*bend over*” in anticipation of a nonconsensual rectal examination. Defendant Avallone then reached out with her hand toward Jane’s rectum, with the intent to forcibly open her rectal cavity.

110. Following the rectal examination, Defendant Avallone ordered Jane to “turn around,” implying that the next examination would be of the inside of her vagina. Again, Defendant Avallone reached out with her hand toward Jane’s vagina, with the intent of forcibly opening her vaginal cavity.

111. Defendant Avallone’s conduct placed Jane in imminent apprehension of harmful contact, and represent the tort of common law assault.

112. Defendant Bird was present and consented to Defendant Avallone’s actions and took no action to prevent them.

113. Because of the Defendants’ assault, Jane was made to suffer personal injuries, pain and suffering, severe mental anguish, emotional distress, humiliation, degradation, injury to reputation, permanent loss of natural psychological development, and other related harms.

114. Defendants are liable to Jane for compensatory damages, including non-economic and economic damages resulting from Defendant’s tortious conduct.

115. Additionally, Defendants’ actions were willful, wanton, malicious and oppressive, entitling Jane to punitive damages.

**FOURTH CAUSE OF ACTION**  
**AGAINST DEFENDANTS AVALLONE AND BIRD**  
**FOR COMMON LAW BATTERY**

116. Plaintiff restates and realleges paragraphs “1” through “115”.

117. During the aforementioned examinations of Jane’s rectum and vagina, Defendant Avallone made physical contact with Jane’s body and forcibly manipulated the openings to Jane’s rectum and vagina.

118. Jane had clearly indicated that she did not consent to Defendant Avallone performing rectal or vaginal examinations.

119. Defendant Avallone’s behavior resulted in offensive nonconsensual bodily contact, and represents the tort of common law battery.

120. Because of the Defendants’ battery, Jane was made to suffer personal injuries, pain and suffering, severe mental anguish, emotional distress, humiliation, degradation, injury to reputation, permanent loss of natural psychological development, and other related harms.

121. Defendants are liable to Jane for compensatory damages, including non-economic and economic damages resulting from Defendant’s tortious conduct.

122. Additionally, Defendants’ actions were willful, wanton, malicious and oppressive, entitling Jane to punitive damages.

**FIFTH CAUSE OF ACTION**  
**AGAINST ALL DEFENDANTS**  
**COMMON LAW FALSE IMPRISONMENT**

123. Plaintiff restates and realleges paragraphs “1” through “122”.

124. On the morning of December 11, 2015, Defendant Luther found Jane in the hallway of the high school and directed her to “*go for a walk with him.*” Defendant Luther’s demeanor and tone of voice

implied to Jane that she did not have the option of declining his order. Defendant Luther's actions diverted Jane from her normal daily schedule and routine as a student of Harrisville High School.

125. Defendant Luther walked Jane past two armed, uniformed members of the New York State Police, who were standing conspicuously at the door to the office.

126. Upon information and belief, the two armed officers were present at the Defendants' request in order to facilitate Jane's confinement for the purpose of conducting searches on her person and property for drugs or other prohibited contraband.

127. Jane was kept confined in Defendant Luther's office against her will. She was thereafter led into the school nurse's office where she was further confined against her will.

128. The duration of Jane's confinement was approximately two and a half hours, during which time she was investigated on false and baseless accusations of possessing drugs or contraband, was subjected to a humiliating strip search, and was further subjected to a frightening, degrading, and de-humanizing nonconsensual cavity search of her rectum and vagina. The actions of the Defendants throughout that time were intended to clearly communicate to Jane that she was not free to leave.

129. The Defendants lacked a justifiable basis for confining Jane and lacked a justifiable basis for the egregious actions that occurred to her during her confinement.

130. The Defendants' aforesaid actions represent the tort of false imprisonment.

131. Because of the Defendants' false imprisonment, Jane was made to suffer personal injuries, pain and suffering, severe mental anguish, emotional distress, humiliation, degradation, injury to reputation, permanent loss of natural psychological development, and other related harms.

132. Defendants are liable to Jane for compensatory damages, including non-economic and economic damages resulting from Defendant's tortious conduct.

133. Additionally, Defendants' actions were willful, wanton, malicious and oppressive, entitling Jane to punitive damages.

**SIXTH CAUSE OF ACTION**  
**AGAINST THE DISTRICT, AND DEFENDANTS FINSTER AND LUTHER**  
**FOR RECKLESS FAILURE TO TRAIN**

134. Plaintiff restates and realleges paragraphs "1" through "133".

135. Upon information and belief, the illicit use of drugs or other prohibited substances is not an uncommon phenomenon among high school students in school districts across the nation.

136. The Harrisville Central School District and the Harrisville Central School District Board of Education were deliberately indifferent to the need to properly train administrators, nurses, and other school officials about the correct methods for responding to a suspicion that a particular student possessed drugs or other contraband.

137. The deliberate indifference of the Harrisville Central School District and the Harrisville Central School District Board of Education resulted in, among other things, the frightening, degrading, and de-humanizing treatment Jane received from the Defendants on December 11, 2015.

138. Because of the Defendants' reckless failure to train its staff, Jane was made to suffer personal injuries, pain and suffering, severe mental anguish, emotional distress, humiliation, degradation, injury to reputation, permanent loss of natural psychological development, and other related harms.

139. Defendants are liable to Jane for compensatory damages, including non-economic and economic damages resulting from Defendant's reckless failure to train in violation of 42 U.S.C. § 1983 and New York State law.

140. Jane is also entitled to the reasonable attorneys' fees, costs, disbursements, and other recoverable fees incurred in the prosecution of this action.

141. Additionally, Defendants' actions were willful, wanton, malicious and oppressive, entitling Jane to punitive damages.

**SEVENTH CAUSE OF ACTION**  
**AGAINST ALL DEFENDANTS**  
**FOR INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

142. Plaintiff restates and realleges paragraphs "1" through "141".

143. Defendants intentionally subjected, or permitted the Plaintiff to be subjected to frightening, degrading, and de-humanizing treatment in the form of an unwarranted strip search and body cavity search.

144. The Defendants' conduct constitutes the common-law tort of intentional infliction of emotional distress.

145. Because of the Defendants' intentional infliction of emotional distress, Jane was made to suffer personal injuries, pain and suffering, severe mental anguish, emotional distress, humiliation, degradation, injury to reputation, permanent loss of natural psychological development, and other related harms.

146. Defendants are liable to Jane for compensatory damages, including non-economic and economic damages resulting from Defendant's tortious conduct.

147. Additionally, Defendants' actions were willful, wanton, malicious and oppressive, entitling Jane to punitive damages.

**EIGHTH CAUSE OF ACTION**  
**AGAINST ALL DEFENDANTS**  
**FOR COMMON LAW NEGLIGENCE**

148. Plaintiff restates and realleges paragraph "1" through "147".

149. The District and all of the individual Defendants had a duty to use reasonable efforts to protect the safety and physical well-being of students while at school.

150. The Defendants failed to act with reasonable care and were collectively and individually negligent in the manner in which they handled the situation and the actions they took with respect to Plaintiff.

151. Defendants are liable to Jane for compensatory damages, including non-economic and economic damages resulting from Defendant's tortious conduct.

**NINTH CAUSE OF ACTION**  
**AGAINST THE BOARD, THE DISTRICT, AND**  
**DEFENDANTS FINSTER AND LUTHER**  
**FOR NEGLIGENT FAILURE TO TRAIN**

152. Plaintiff restates and realleges paragraph "1" through "151".

153. The District and the Board, as well as Defendants Finster and Luther, were negligent in failing to train employees of the District and in failing to implement appropriate policies to ensure that actions such as those taken by Defendant Avallone did not take place.

154. In addition, the District and/or the Board failed to monitor its employees specifically including Defendant Avallone and were negligent in the hiring and training of Defendant Avallone.

155. Defendants are liable to Jane for compensatory damages, including non-economic and economic damages resulting from Defendant's tortious conduct.

**TENTH CAUSE OF ACTION**  
**AGAINST ALL DEFENDANTS**  
**FOR GENDER DISCRIMINATION**

156. Plaintiff restates and realleges paragraphs "1" through "155".

157. Defendants, acting under color of law, further commanded Jane, in spite of her vigorous protests, to undergo a frightening, degrading, and de-humanizing body cavity search procedure.

158. Defendants agreed and conspired with each other to exploit, abuse and harass Jane because of her gender.

159. The actions committed by defendants against Jane are objectively offensive and so severe that it undermined and deprived Jane of access to educational benefits and/or opportunities at School.

160. The acts committed by Defendants violated plaintiff's rights under Title IX of the 1972 Education Amendments, 20 U.S.C. § 1681, 42 U.S.C. § 1983, and New York State law.

161. Because of the Defendants' unlawful gender discrimination, Jane was made to suffer personal injuries, pain and suffering, severe mental anguish, emotional distress, humiliation, degradation, injury to reputation, permanent loss of natural psychological development, and other related harms.

162. Defendants are liable to Jane for compensatory damages, including non-economic and economic damages resulting from Defendant's violation of Title IX of the 1972 Education Amendments, 20 U.S.C. § 1681, 42 U.S.C. § 1983, and New York State law.

163. Additionally, Defendants' actions were willful, wanton, malicious and oppressive, entitling Jane to punitive damages.

164. Jane is also entitled to the reasonable attorneys' fees, costs, disbursements, and other recoverable fees incurred in the prosecution of this action.

**ELEVENTH CAUSE OF ACTION**  
**AGAINST ALL DEFENDANTS**  
**FOR VIOLATION OF PLAINTIFF'S RIGHT TO EQUAL PROTECTION**

165. Plaintiff restates and realleges paragraphs "1" through "164".

166. Upon information and belief, Defendants have policies and procedures to prevent and remedy harassment, discrimination and/or violence suffered by all students. Upon information and belief, such policies and procedures prohibit Defendants from committing acts which constitute harassment, discrimination and/or violence towards students on the basis of gender.

167. As set forth above, Defendants subjected Jane to frightening, degrading, and de-humanizing treatment in the form of an unwarranted strip search and body cavity search.

168. These acts committed by Defendants were committed with deliberate indifference towards the well-being and rights of Jane.

169. All of the acts alleged above by Defendants were committed intentionally and purposefully because of Plaintiff's sex.

170. The conduct by Defendants violated Jane's right not to be deprived of equal protection of the laws on the basis of sex under the Fourteenth Amendment to the United States Constitution, 42 U.S.C. § 1983 and New York State law.

171. Because of the Defendants' unlawful conduct, Jane was made to suffer personal injuries, pain and suffering, severe mental anguish, emotional distress, humiliation, degradation, injury to reputation, permanent loss of natural psychological development, and other related harms.

172. Defendants are liable to Jane for compensatory damages, including non-economic and economic damages resulting from Defendant's violation the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983, and New York State law.

173. Additionally, Defendants' actions were willful, wanton, malicious and oppressive, entitling Jane to punitive damages.

174. Jane is also entitled to the reasonable attorneys' fees, costs, disbursements, and other recoverable fees incurred in the prosecution of this action.

**TWELFTH CAUSE OF ACTION**  
**AGAINST ALL DEFENDANTS**  
**FOR NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

175. Plaintiff restates and realleges paragraphs “1” through “174”.

176. Defendants engaged in conduct that was grossly negligent, extreme and outrageous when they subjected Jane to frightening, degrading, and de-humanizing treatment in the form of an unwarranted strip search and body cavity search.

177. Defendants engaged in this course of conduct with wanton and reckless disregard of the consequences, harm and/or injury that would result to Jane.

178. Because of the Defendants’ unlawful conduct, Jane was made to suffer personal injuries, pain and suffering, severe mental anguish, emotional distress, humiliation, degradation, injury to reputation, permanent loss of natural psychological development, and other related harms.

179. Defendants are liable to Jane for compensatory damages, including non-economic and economic damages resulting from Defendant’s conduct.

**THIRTEENTH CAUSE OF ACTION**  
**AGAINST ALL DEFENDANTS**  
**FOR PRIMA FACIE TORT**

180. Plaintiff restates and realleges paragraphs “1” through “179”.

181. As set forth above, Defendants subjected Jane to frightening, degrading, and de-humanizing treatment in the form of an unwarranted strip search and body cavity search.

182. These acts committed by Defendants were committed with deliberate indifference towards the well-being and rights of Jane.

183. All of the acts alleged above by Defendants were committed intentionally to inflict harm on Jane and were further committed without any justification and/or excuse.

184. Because of the Defendants' unlawful conduct, Jane was made to suffer personal injuries, pain and suffering, severe mental anguish, emotional distress, humiliation, degradation, injury to reputation, permanent loss of natural psychological development, and other related harms.

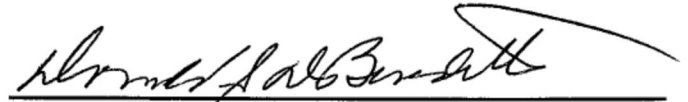
185. Defendants are liable to Jane for compensatory damages, including non-economic and economic damages resulting from Defendant's conduct.

**WHEREFORE**, the Plaintiff, Jane Doe, respectfully requests the following relief be granted by this Court:

- A judgment against all Defendants, jointly and severally, awarding compensatory damages to the Plaintiff in an amount to be determined at trial.
- A judgment against all individual Defendants awarding punitive damages to the Plaintiff in an amount to be determined at trial.
- A monetary award for attorneys' fees, expert fees, and the costs of this action, pursuant to 42 U.S.C. § 1988.
- Any other relief the Court deems just and proper.

**DATED: December 8, 2016**

**COSTELLO, COONEY & FEARON, PLLC**



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