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Superior Court of California
County of Fresno
By: C. York, Deputy

10 Attorneys for: Plaintiffs JOHN, JANE, and DAUGHTER DOE

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12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13
14 COUNTY OF FRESNO, UNLIMITED CIVIL DIVISION

15 JOHN DOE, JANE DOE, and DAUGHTER)
16 DOE)

Case No. 21CECG03118

17 Plaintiffs,

**SECOND AMENDED COMPLAINT; AND
JURY DEMAND**

18 v.

19 JOHN CHRISTOPHER SPATAFORE, and)
20 COMMUNITY HOSPITALS OF)
21 CENTRAL CALIFORNIA DOES 1 through)
22 20, inclusive,)

23 Defendants.
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1. Plaintiff JOHN DOE (“Plaintiff” or “JOHN”) is an individual residing in Fresno County, California. Plaintiff JOHN DOE is and all times relevant was employed by the City of Fresno as a police officer. As of October 25, 2019, Plaintiff had been active with the Fresno Police Department for almost 19 years, and was on duty and in uniform on October 25, 2019 when he issued Defendant JOHN CHRISTOPHER SPATAFORE (“SPATAFORE”) a citation for jaywalking near his place of work at COMMUNITY HOSPITALS OF CENTRAL CALIFORNIA (“CHCC”). Plaintiff’s name, JOHN DOE, is a pseudonym for a man whose name is kept confidential for personal safety and privacy reasons.

1 2. Plaintiff JANE DOE (“Plaintiff” or “JANE”) is and all times relevant has
2 been married to JOHN DOE. Both JANE and JOHN reside together and did so during the relevant
3 times. JANE DOE is a pseudonym for a woman whose name is kept confidential for personal safety
4 and privacy reasons. JANE DOE is a resident of Fresno County.

5 3. Plaintiff DAUGHTER DOE (“Plaintiff” or “DAUGHTER”) is an adult child
6 of JOHN and JANE DOE who resided at the home of JOHN and JANE DOE as a minor in the Fall
7 of 2019. DAUGHTER DOE is now an adult and the name is a pseudonym for a woman whose name
8 is kept confidential for personal safety and privacy reasons. DAUGHTER DOE was a resident of
9 Fresno County during the relevant times.

10 4. Defendant CHCC is a California Nonprofit Corporation which has done
11 business and continues to do business in Fresno County, California. All Plaintiffs were, during the
12 relevant times, CHCC patients.

13 5. Defendant JOHN CHRISTOPHER SPATAFORE is an individual residing
14 in Fresno County, California. During the relevant times, CHCC employed SPATAFORE in its
15 information technology (“IT”) department. Plaintiffs are informed and believe and thereon allege that
16 SPATAFORE was an officer, director, or managing agent of CHCC during the relevant times.
17 Moreover, CHCC is liable for the willful and malicious torts of its employee, SPATAFORE,
18 committed in the scope of the employment and against all Plaintiffs herein.

19 6. The true names and capacities of the Defendants named herein as DOES 1
20 through 20, inclusive, whether an individual, corporation or otherwise are unknown to the Plaintiffs
21 who, therefore, sues such Defendants by fictitious names pursuant to Code of Civil Procedure §474.
22 Alternatively, such DOE Defendants are persons whose identities are known to Plaintiffs, but about
23 whom sufficient facts are not known that would support the assertion by Plaintiffs of a civil claim
24 at this time. When Plaintiffs obtain information supporting a claim against any DOE Defendant,
25 Plaintiffs will seek leave to amend this Complaint and will allege appropriate charging allegations.
26 Plaintiffs are informed and believe, and thereon allege, that the Defendants, and each of them, are
27 agents and/or employees and/or parents, subsidiaries or sister corporations of each other, and are
28 responsible for the acts complained of herein, unless otherwise alleged in this Complaint.

1 **SUMMARY OF FACTS.**

2 7. On October 25, 2019, at around 2:07 p.m., OFFICER JOHN issued
3 SPATAFORE a ticket for unlawful crossing between controlled intersections (Jaywalking), which
4 is a violation of Vehicle Code Section 21955. SPATAFORE had illegally crossed the street near
5 Fresno City Hall and traversed across railroad tracks in an area that had historically experienced high
6 numbers of accidents and injuries. In response to JOHN’s request for identification, SPATAFORE
7 claimed he had none. When asked for his address, SPATAFORE told JOHN that his address was
8 the administrative support building for CHCC located at 1140 T Street Fresno, CA. (Thus, notice
9 of the ticket was mailed to CHCC administrative building.) The interaction between SPATAFORE
10 and JOHN was recorded by JOHN’s police-issued body camera. While detained, SPATAFORE was
11 upset, and asked strange personal and questions about JOHN’s address and whether JOHN had kids.
12 SPATAFORE asked if JOHN was aware that most “police officers die of suicide” etc..

13 8. Within four days, on October 29, 2019, JOHN began receiving password
14 reset codes from his personal email address, which suggested attempts were being made to gain
15 unauthorized entry into JOHN’s personal email account. The password reset requests were unusual
16 and persisted eight (8) more times on November 4, 2019 and then twice on November 5, 2019.
17 Then, JOHN started to receive phone calls, emails, and texts from car dealerships “responding” to
18 JOHN’s “inquiry” about the online purchase of luxury cars that JOHN had never made. One
19 dealership, Carmax, e-mailed JOHN to confirm an appointment in San Francisco, CA to see a
20 Corvette. On November 6, 2019, JOHN received over 100 texts to his personal phone concerning
21 all manner of solicitations allegedly “responding” to JOHN’s “inquiry” or “appointment request” that
22 he never made. The unsolicited contacts persist to this day disturbing JANE and JOHN’s peace of
23 mind and their right to be left alone – despite multiple attempts to be removed from lists.

24 9. On November 8, 2019, JOHN received notice that his password to his emails
25 and Xfinity account had received thirteen (13) attempts to be reset. Someone was attempting to gain
26 unlawful access into or had indeed gained unlawful entry into Plaintiff’s private accounts. Thereafter,
27 Lamborghini, Rolls Royce, and Maserati dealerships started to deluge JOHN with calls “responding
28 to your request” concerning online orders and online inquiries that JOHN never made. Further, there

1 were also indications of attempted intrusion into Plaintiffs' wireless internet which suggested that
2 SPATAFORE lurked outside Plaintiffs' home at all hours of the day and night to hack into Plaintiffs'
3 wireless internet and was within the short radius of the wireless internet's reach. JOHN received
4 multiple notifications that an unauthorized user was seeking access to the router – which required
5 a physical presence within 150 feet of the home.

6 10. As of November 8, 2019, CHCC knew that SPATAFORE had an interaction
7 with JOHN DOE that had led to a citation and a prospective court hearing. On this day, CHCC
8 processed SPATAFORE's mail and alerted SPATAFORE. As of this very time and beyond,
9 SPATAFORE had been using his phone, CHCC computer, and CHCC laptop during work hours in
10 an open and notorious fashion to make unwanted contact with all Plaintiffs. Following interaction
11 with John Doe, at work, SPATAFORE spent an average of 1-2 hours per day engaged in contact with
12 PLAINTIFFS directly or indirectly making use of CHCC systems, data, and equipment. This activity
13 took place at work and was openly and notoriously done for weeks. CHCC knew or should have
14 known exactly what SPATAFORE was doing at the time as CHCC's policy was indeed to monitor
15 and log all websites SPATAFORE visited along with all downloads SPATAFORE downloaded. By
16 its own policy and by law, CHCC was obligated to monitor the online activities of its employees,
17 significantly and including SPATAFORE. Indeed, at great expense, CHCC retained the services of
18 third party software vendors, certified as "HIPPA security compliant," to permit CHCC to monitor
19 SPATAFORE and other employees. To protect its patients, such as Plaintiffs, CHCC maintains and
20 maintained a robust Internet user policy for its employees out of a concern that patients, like
21 Plaintiffs, would have their Protected Health Information misused. Again, CHCC did in fact monitor
22 its employees' internet use specifically to safeguard patient information and patients as it was
23 foreseeable that this information would be misused and often is misused in the hospital setting such
24 that the California legislature has codified laws governing the use and protection of patient
25 information. CHCC owed a duty to Plaintiffs and all of its employees to ensure that its employees,
26 such as SPATAFORE, did not misuse Protected Health Information – which is defined below
27 consistent with Cal. Civ. Code § 56.05(I) .

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1 11. As the unwanted contact escalated, SPATAFORE secretly impersonated
2 JOHN to make false police reports against JOHN with JOHN's own police department.
3 SPATAFORE filed a false police report with the City of Fresno using JOHN's home address,
4 birthday, home phone number, and cell phone number along with Plaintiff's work phone number,
5 and personal email address. SPATAFORE contacted PG&E to have Plaintiffs' power and gas shut
6 off. In November 2019, Officer Barajas informed Plaintiff that SPATAFORE had filed a false report
7 against JOHN. SPATAFORE's misconduct was confirmed when a search warrant was executed and
8 tied the subscriber's IP address to CHCC who identified SPATAFORE. It was confirmed that this
9 false police report had been made on a CHCC computer and IP address. In this first false police
10 report, SPATAFORE impersonated JOHN and falsely claimed JOHN had been involved in a hit and
11 run. The date of this fictitious event was listed as 10/1/19 at 11:55 a.m. In the narrative portion of
12 the false police report, SPATAFORE falsely accused JOHN of crimes: "Police Motorcycle riding
13 on sidewalk without lights or sirens. Appeared intoxicated on drugs all while laughing aloud."

14 12. Then, again, making use of CHCC resources and systems, SPATAFORE
15 filed another false police report impersonating JOHN's sister-in-law to again falsely accuse JOHN
16 of a crime. This time, SPATAFORE claimed that Plaintiff had engaged in domestic violence with
17 JANE DOE, his wife, and that JANE's sister-in-law had photographic evidence of abuse. Because
18 reports of abuse and domestic violence are taken seriously, these false accusations were investigated
19 and JANE was questioned. The humiliating false reports of false domestic violence spread in the
20 community and in the Fresno Police Department and JOHN and JANE have been humiliated and
21 forced and compelled to republish and refute the defamatory claims within the last year to explain
22 what happened and why the claims of domestic violence were false. Plaintiffs JOHN and JANE are
23 informed and believe that SPATAFORE made at least three false police reports and there may be
24 more. JOHN was told about a third false police report, but his superior did not provide the details
25 about the report – likely out of a desire to protect JOHN.

26 13. Due to the specific information being used by SPATAFORE in the activities
27 against JOHN and JANE and their family, and on account of the CHCC IP address, law enforcement
28 believed that SPATAFORE and or other CHCC employees had accessed Plaintiffs' CHCC's medical

1 records to assume Plaintiffs' identity and impersonate Plaintiffs to both law enforcement and
2 members of the public. Indeed, following a review of the CHCC laptop and CHCC computer, the
3 Police confirmed "There were tens of thousands of website hits during the time period and there
4 were possible [sic] many more website hits that would show Spatafore was using his work [CHCC]
5 computer to contact multiple companies, place _____[Plaintiffs' name] personal identifying
6 information in this website and solicit the company to contact _____[Plaintiffs]." This specific
7 information was known to CHCC and was indeed supplied to the police by CHCC. To date, CHCC
8 has withheld this information sought during discovery and attempted to cover up evidence of the bad
9 conduct – which evidences and supports post facto ratification of all of Spatafore's conduct.

10 14. After an internal investigation, SPATAFORE's supervisor or another CHCC
11 staff person confirmed that CHCC resources and PLAINTIFFS' Protected Health Information, as
12 per Cal. Civ. Code § 56.05(I),¹ had been improperly shared and used to cyber attack and stalk
13 PLAINTIFFS. At no time, did PLAINTIFFS consent to CHCC and SPATAFORE's use, as described
14 herein and above, of PLAINTIFFS' Protected Health Information.

15 15. CHCC confirmed that SPATAFORE's hosted work email had been used to
16 send information concerning JOHN to many different end-users including "Spatdog Adventure
17 Live." SPATAFORE's CHCC-issued laptop and/or browsing history on his CHCC computer
18 confirmed that SPATAFORE was using the CHCC resources and tools to contact multiple
19 companies (Premier Renewables, Soltek Solar, Selma Auto Mall, Lithia Ford-Lincoln of Fresno,
20 Lexus.com, Maserati.com, Lamborghini.com, Energy Concepts, Carmax, PG&E, County of Fresno
21 Inspection Request, Fresno Bee, and LLBean, to name a few) to disseminate, without permission
22 PLAINTIFFS' Protected Health Information, to harass, cyber stalk, attack, humiliate,

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25 ¹(I) "Medical information" means any individually identifiable information, in electronic or
26 physical form, in possession of or derived from a provider of health care, health care service plan,
27 pharmaceutical company, or contractor regarding a patient's medical history, mental or physical
28 condition, or treatment. "Individually identifiable" means that the medical information includes or
contains any element of personal identifying information sufficient to allow identification of the
individual, such as the patient's name, address, electronic mail address, telephone number, or social
security number, or other information that, alone or in combination with other publicly available
information, reveals the identity of the individual.

1 defame, and invade the privacy of JOHN, JANE, and DAUGHTER.

2 16. As confirmed by the Fresno Police Department, a CHCC computer and
3 laptop were used by SPATAFORE to impersonate PLAINTIFFS to share, without permission,
4 PLAINTIFFS' Protected Health Information to contact thousands of websites, disclose
5 PLAINTIFFS' Protected Health Information, and solicit companies to contact PLAINTIFFS –
6 without their knowledge or consent in order to subject them to constant harassing calls at all hours
7 of the day and night. While at work and on the clock at CHCC, SPATAFORE used CHCC's
8 systems and tools to access PLAINTIFFS' Protected Health Information. Absent PLAINTIFFS'
9 permission or knowledge, SPATAFORE used CHCC resources, tools, and technology to share
10 PLAINTIFFS' Protected Health Information with numerous third parties. As a result of the
11 harassment and misuse of PLAINTIFFS' Protected Health Information, obtained on and through
12 CHCC servers and systems along with the vindictive invasion of privacy, PLAINTIFFS continue to
13 receive annoying and harassing unsolicited contacts from a variety of people, websites and services.

14 17. Within the last few months, SPATAFORE's actions have given rise to
15 extortion. JANE, JOHN, and DAUGHTER have received email messages indicating that their
16 personal computer cameras have been unlawfully accessed and that all Plaintiffs have been recorded
17 during very intimate moments and that compromising videos will be released to the general public
18 to "destroy" them if demands presented are not met ("Within 96 hours your public image will be
19 fully spoiled...Ur sexual stimulation was shot with the help of ur infected device via ur
20 camera...Once I get my remuneration, I am going to eliminate ur earth-shattering video." (Email to
21 JANE on July 13, 2021.) "I require your 100% attention for the up coming 24hours, or I will
22 certainly make sure you that you live out of guilt for the rest of your life span....I know nearly
23 everything about you...and this includes, your masturbation video clips..." (Email to JOHN on June
24 21, 2021.) JOHN and JANE understood and still believe that their personal computers, cell phones,
25 and cameras in their home had been unlawfully intruded, accessed, and recorded.

26 18. Further, SPATAFORE, posing as JOHN, and while making use of CHCC
27 resources and while at work, and unlawfully making use of PLAINTIFFS' Protected Health
28 Information, contacted the City in which PLAINTIFFS reside and requested that the water and

1 trash services terminate at Plaintiffs' home – specifically identifying Plaintiffs' home. The
2 essential services were slated for termination on November 28, 2019, or Thanksgiving Day. As
3 SPATAFORE planned, Plaintiffs' holiday was disrupted and they had to rush to contact the City
4 to intervene in-person to reinstate these essential services. SPATAFORE, posing as
5 PLAINTIFFS, also attempted to schedule a building and pool inspection with the County of
6 Fresno at Plaintiffs' home through the County of Fresno website. This also required intervention.

7 19. Using a special application on his phone, and while at work at CHCC,
8 SPATAFORE generated a false phone number that sent threatening messages to both JANE and
9 JOHN.

10 20. JOHN, JANE, and DAUGHTER continue to receive email threats that if
11 demands are not met, their lives will be “ruined.” The threatening messages and contacts that
12 SPATAFORE caused and put in motion continue up and until this day.

13 21. Given the volume of data, which was confirmed later through the Fresno
14 Police investigation, it was clear that SPATAFORE not only used CHCC computers and computing
15 from his CHCC office, but continued on his mission against PLAINTIFFS from his own home –
16 again using CHCC systems and software that were indeed monitored by CHCC.

17 22. Plaintiffs are informed and believe that SPATAFORE was terminated from
18 his employment at CHCC on November 21, 2019, the day he was arrested for the criminal acts
19 against PLAINTIFFS. Prior to that point, CHCC had confirmed to the Fresno Police Department that
20 SPATAFORE had certain privileges in his position that provided SPATAFORE unrestricted access
21 to Plaintiffs' medical records and outside websites.

22 23. CHCC had a legal duty to members of the public and to its patients, such as
23 Plaintiffs, to prevent their employees from misusing records and Protected Health Information. By
24 CHCC policy and by law, CHCC was obligated to monitor its employees, such as SPATAFORE,
25 and alert members of the public if and when Protected Health Information was improperly shared.
26 (See Health & Safety Code Section 1280.15.) CHCC had a duty to members of the public and to its
27 patients to prevent their employees, such as SPATAFORE, from unlawfully disseminating Protected
28 Health Information, as SPATAFORE did with Plaintiffs' Protected Health Information. CHCC chose

1 to disregard its duties in this regard and accept the foreseeable event where SPATAFORE would
2 cause harm to others by disseminating, without permission, a patient’s Protected Health Information.
3 Indeed, CHCC knew of SPATAFORE’s bad conduct associated with CHCC information system
4 technologies, and chose to keep SPATAFORE employed. Prior to SPATAFORE’s termination, and
5 prior to Spatafore’s encounter with John Doe, CHCC had issued SPATAFORE multiple final
6 written warnings for egregious misconduct in the workplace – including misuse of the CHCC email
7 system to engage in “intimidating and/or disruptive behavior.” Per the CHCC discipline policy, the
8 final written warning was the culmination of both prior oral and written disciplinary actions by
9 CHCC for misconduct. Despite CHCC’s knowledge of SPATAFORE’s propensity for gross
10 misconduct and policy violations, including misuse of emails while at work and prior to meeting
11 officer John Doe, CHCC chose to maintain the employment relationship and thereby expose
12 PLAINTIFFS and others to harm. Indeed, CHCC monitored SPATAFORE’s use of servers, systems,
13 and programs, but chose to ignore or failed to detect and then report on SPATAFORE’s deliberate
14 misuse of PLAINTIFFS’ Protected Health Information – even after CHCC disciplined Spatafore for
15 related policy violations with “final written warning.” Most importantly, CHCC knew that Spatafore
16 was unfit to work at CHCC in the IT department, knew that Spatafore represented a threat to
17 members of the public, and even before Spatafore met John Doe. After all, again, Spatafore had
18 received more than one final written warning where he should have been terminated after having
19 received a single one. After a warrant was issued, CHCC was approached to assist with an
20 investigation. In response, CHCC reported that SPATAFORE was would assist. It was made clear
21 that SPATAFORE could not “assist” as he was the target of the investigation. CHCC, through its
22 counsel Nicea Darling, was informed in writing by a Fresno Police Officer on November 19, 2019
23 of SPATAFORE’s misuse of CHCC’s equipment and technology. CHCC confirmed to the
24 authorities that SPATAFORE had misused PLAINTIFFS’ Protected Health Information. In
25 contravention of its obligations, CHCC never shared with PLAINTIFFS the extent of what Protected
26 Health Information SPATAFORE had shared with third parties. CHCC still refuses to do that to this
27 day.

28 24. On November 21, 2019 SPATAFORE sent JOHN a message saying

1 “Hey____ [name]! Hope adding me to your life isn’t bugging you. Anyway this stuff is all about
2 discretion. Let’s talk! Calling you now amigo.” In other words, it appeared that SPATAFORE was
3 aware of the communication by the Fresno Police Officers and Ms. Darling on November 19, 2019,
4 and made a veiled threat that JOHN needed to act with “discretion” or SPATAFORE’s cyber-hell
5 to JOHN’s life would continue.

6 25. SPATAFORE was arrested on November 21, 2019 while driving within a
7 mile of PLAINTIFFS’ home. PLAINTIFFS saw this as a life-saving intervention since on the floor
8 board directly at SPATAFORE’s feet was a black bag. Inside that “work bag” was a loaded revolver
9 handgun. It was determined that SPATAFORE did not have a license to carry a concealed weapon,
10 and it was also determined that the loaded firearm was not registered to anyone. When questioned
11 by the police, SPATAFORE acted like he was unaware of the firearm.

12 26. A search warrant of the SPATAFORE residence was executed and that search
13 revealed that SPATAFORE was also in possession of a stolen firearm, marijuana, methamphetamine
14 pipes, and a white powder described by the inventorying officer as follows: “The white powdery
15 substance did not look consistent with methamphetamine, but more consistent with cocaine. I also
16 recalled a prior training on Fetanyl and how it could look like cocaine. Due to that possibility, I
17 alerted the rest of my team about the discovery and placed the container in K-Pac sleeve to prevent
18 exposure to everyone if the substance was Fetanyl . I also seized the two Methamphetamine pipes
19 at the direction of the case agent.”

20 27. After having been read his Miranda rights and repeatedly advised of his
21 rights to counsel, SPATAFORE waived his rights, and admitted to nearly everything that he had
22 done to Plaintiffs through the use of CHCC facilities CHCC issued computers and CHCC email
23 address including the harassment campaign outlined above. The confession was recorded.
24 Underscoring that these events were all foreseeable, and hence why CHCC is duty-bound and legally
25 obligated to monitor its employees with access to Patient Protected Information and ensure that
26 breaches, such as this one with Plaintiffs’ medical records, do not happen was the comment by
27 Fresno Police Detective during the Spatafore interview who recognized the computer savvy of
28

1 Spatafore: “A guy at your intelligence level..with a computer...the things that you [Spatafore] can
2 do on a computer can ruin lives.”

3 28. SPATAFORE subsequently wrote an insincere apology note that reads:
4 “ _____[Name] & Family I am so sorry for causing you and your family undo stress. I have and
5 had no ill will towards you. I made a huge misjudgment to do this. I hope you can find it in your
6 heart to forgive me. I am truly sorry. God Bless.” Shortly thereafter, SPATAFORE was arraigned,
7 posted bond, and bailed out.

8 29. The harm, fear, humiliation, and stress SPATAFORE caused to PLAINTIFFS
9 is ongoing as PLAINTIFFS are still contacted by those that SPATAFORE contacted to impersonate
10 Plaintiffs or those who obtained PLAINTIFFS’ confidential information because of SPATAFORE.
11 Moreover, the extreme fear that PLAINTIFFS lived with and still live with to this day has been truly
12 unbearable. As a proximate cause of the aforementioned activities by SPATAFORE, PLAINTIFF
13 JOHN has suffered severe emotional distress and physical harm. JOHN’s physical manifestations
14 of harm caused by SPATAFORE includes, but is not limited to, headaches, stomach aches, internal
15 bleeding, and becoming physically ill and vomiting. On account of SPATAFORE’s conduct and the
16 foreseeable impact to JOHN, JOHN has had to visit the emergency room for physical illness,
17 including, upper gastrointestinal tract bleeding and blood in his stool. PLAINTIFF JOHN has
18 suffered physically on account of SPATAFORE’s conduct to the point where he vomits and has felt
19 so physically sick and impaired that he has been unable to work at times. Plaintiff JANE has also
20 suffered physical manifestations of bodily injury as a result of SPATAFORE’s conduct.

21 30. Within the last year, Plaintiffs have received hundreds if not thousands of
22 unwanted spam emails and spam telephone calls which are all but for caused by actions taken on
23 CHCC systems and servers. CHCC has never contacted Plaintiffs to inform them of the extreme
24 exposure that CHCC and its employee, SPATAFORE, subjected Plaintiffs to commercial
25 misappropriation of Plaintiffs’ confidential information. As of November 2019, CHCC was indeed
26 aware of the tens of thousands of unwanted contacts by third parties including, including commercial
27 third parties, on account of SPATAFORE’s activity as CHCC provided this information to the
28 Fresno Police department in December 2019. However, CHCC has refused to cooperate in this

1 lawsuit with basic discovery to permit Plaintiffs to contact all of the sources. In this lawsuit, CHCC
2 has intentionally withheld information evidencing the “tens of thousands” of unwanted contacts that
3 took place during SPATAFORE’s employment with CHCC and which CHCC confirmed to the
4 police in 2019. In this action, CHCC attempts to cover up its conduct and failure to discharge its
5 duties to Plaintiffs. In choosing to hide SPATAFORE’s conduct; in choosing to try and cover it up
6 and by not being forthcoming with information CHCC has further chosen to ratify all of
7 SPATAFORE’s misconduct for which CHCC remains vicariously liable.

8 **FIRST CAUSE OF ACTION (REVISED)**

9 **(VIOLATION OF THE CALIFORNIA MEDICAL INFORMATION ACT**
10 **against All Defendants, and Does 1 through 20)**

11 31. Plaintiffs incorporate each and every allegation contained in Paragraphs 1
12 through 30 above, as though fully set forth in this cause of action.

13 32. Plaintiffs had a medical records stored and derived from CHCC resources.
14 Among other things, Plaintiffs are informed and believe and thereon allege that CHCC failed to
15 install and implement proper safeguards in the EPIC system to protect PLAINTIFFS’ confidential
16 information from being disseminated absent their input or knowledge, and ultimately chose not to
17 notify PLAINTIFFS of the breach of their medical information.

18 33. Plaintiffs are informed and believe and thereon allege that CHCC provided
19 SPATAFORE with unrestricted access to Plaintiffs’ confidential medical records and information,
20 the tools to embark on a nearly month’s long campaign from CHCC to unlawfully disseminate the
21 information, and CHCC is responsible for the harm done by its employee, SPATAFORE, who was
22 acting within the course and scope of his employment, and/or CHCC was aware of SPATAFORE’s
23 conduct and unfitness for his position and use of CHCC property to engage in such conduct and
24 chose not to stop it or properly supervise, monitor and/or implement safeguards for its technology
25 systems to prevent such abuse. Under Civil Code Section 56.35 and 56.36, both CHCC and
26 SPATAFORE are liable to PLAINTIFFS for SPATAFORE’s misuse of PLAINTIFFS’ Protected
27 Health Information that SPATAFORE obtained from CHCC tools and systems, both while at work
28 and during work hours and otherwise. Both SPATAFORE and CHCC’s conduct were substantial
factors in causing Plaintiffs’ harm.

1 at work and during work hours and otherwise. Both SPATAFORE and CHCC's conduct were
2 substantial factors in causing Plaintiffs' harm.

3 39. As a direct and proximate result of the aforementioned acts and omissions of
4 DEFENDANTS, PLAINTIFFS and each of them have suffered emotional distress, fear, worry, loss,
5 diminished self-worth and general and compensatory damages, including but not limited to loss of
6 income (past and future), general and compensatory damages (past and future), and will continue to
7 so suffer such losses in the future, in an amount to be prove at trial. Further, pursuant to CCP Section
8 1021.4 and Civil Code Section 56.35, Plaintiffs are entitled to recover their attorney's fees and costs,
9 in an amount according to proof.

10 40. Because the conduct of Defendants was despicable, malicious and intentional,
11 and was conducted, authorized ratified by a managing agent, officer, or director of CHCC, Plaintiffs
12 are entitled to recover punitive damages against both Defendants in an amount according to proof.

13 **THIRD CAUSE OF ACTION (REVISED)**

14 **(Violation of Business and Professions Code Section 17529 et seq)**
15 **Against All Defendants and Does 1 through 20)**

16 41. Plaintiffs incorporate each and every allegation contained in Paragraphs 1
17 through 40 above, as though fully set forth in this cause of action.

18 42. Within the last year, Plaintiffs have received over five thousand spam emails
19 to their email addresses (which will not be revealed in this public document.) The spam emails come
20 from a long list of solar companies, car companies, pharmaceutical companies, used car dealerships,
21 and scam artists of all varieties that CHCC and SPATAFORE caused to be put in motion through
22 the actions described above. The California Maserati company, for instance, that SPATAFORE
23 "ordered a car" for Plaintiffs using Plaintiffs' names, sent a recent inquiry on May 24, 2022 to
24 inquire about the Plaintiffs' "interest" and to alert Plaintiffs to their opportunities. To be certain,
25 Plaintiffs never consented to receive the thousands upon thousands of spam emails from advertisers
26 that were caused by SPATAFORE and CHCC and its systems. Further, Plaintiffs did not have pre-
27 existing business relationships with the advertisers that SPATAFORE caused to contact Plaintiffs.
28 Since this lawsuit has been pending, CHCC has refused to provide information in its possession that
would allow Plaintiffs to be in a position to identify and cure these contacts .

1 notice of SPATAFORE's conduct by as late as November 19, 2019 and as early as his last final
2 written warning which preceded the events discussed in this lawsuit, and did not bar SPATAFORE's
3 access to records, tools, computer, and instruments used to inflict harm on JANE AND JOHN DOE.
4 Alternatively, CHCC was negligent in retaining SPATAFORE after CHCC had constructive notice
5 of SPATAFORE's misconduct prior to November 19, 2019.

6 47. CHCC hired SPATAFORE approximately nineteen (19) years ago.
7 SPATAFORE became unfit to perform the work for which he was hired. CHCC knew or should
8 have known that SPATAFORE was or had become unfit and that this unfitness created a particular
9 risk to others, including PLAINTIFFS and each of them. Indeed, SPATAFORE had received
10 multiple final written warning for his misconduct prior to his termination and prior to having
11 engaged in the conduct described herein. SPATAFORE was unfit to work in CHCC's IT department
12 and CHCC knew this as of October 1, 2019. SPATAFORE's unfitness harmed PLAINTIFFS and
13 each of them, and CHCC's negligence in failing to properly supervise and/or retaining him as an
14 employee was a substantial factor in causing PLAINTIFFS and each of them, harm.

15 48. As a direct and proximate result of the aforementioned acts and omissions of
16 DEFENDANTS, PLAINTIFFS and each of them, suffered emotional distress, fear, worry, loss,
17 diminished self-worth and general and compensatory damages, including but not limited to loss of
18 income (past and future), general and compensatory damages (past and future); PLAINTIFFS will
19 continue to so suffer such damages in the future, in an amount to be proven at trial.

20 49. Because the conduct of Defendants was despicable, malicious and
21 intentional, and was conducted, authorized or ratified by a managing agent, officer, or director of
22 CHCC, Plaintiffs are entitled to recover punitive damages in an amount according to proof.

23 **FIFTH CAUSE OF ACTION**

24 **(Violation of Civil Code Section 3344 Use of Name or Likeness Against
25 SPATAFORE by JOHN and JANE)]**

26 50. Plaintiffs incorporate each and every allegation contained in Paragraphs 1
27 through 46 above, as though fully set forth in this cause of action.

28 51. Defendant SPATAFORE knowingly used PLAINTIFFS' name to a number

1 dishonest. The false statements tended to injure and did in fact injure Plaintiff in his profession and
2 exposed Plaintiff to contempt, ridicule, or shame.

3 56. While the precise dates of these defamatory publications and comments are
4 not known to JOHN, he discovered for the first time extortion schemes and emails sent to both
5 himself and JANE within the last year, falsely claiming that JOHN was unfaithful to his wife. Some
6 of the claims were made in November 2019, and JOHN was forced to republish and refute them
7 within the last year, including, but not limited to, having to explain to fellow police officers and
8 superiors that the claims about domestic violence and driving a police motorcycle while intoxicated
9 were untrue. (Pursuant to Civil Code Section 47.5 a peace officer may bring an action for defamation
10 against one who filed a complaint with that officer’s employing agency alleging misconduct,
11 criminal conduct, or incompetence, if that complaint is false, the complaint was made with
12 knowledge that it was false and that it was made with spite, hatred, or ill will – which is what
13 happened in this instance to John Doe who is and at all relevant times was a peace officer.) Among
14 other things, SPATAFORE impersonated JOHN and falsely published to the community and Fresno
15 Police Department that JOHN had been involved in a hit and run while under the influence.
16 SPATAFORE caused and published other false police reports including reports concerning domestic
17 violence that Plaintiff was forced and compelled to republish to protect his reputation. At a recent
18 training session, that took place in 2022, for instance, detectives asked John Doe about the false
19 claims associated with Spatafore and his false police reports to which John Doe had to respond,
20 republish them, to address and rebut them. Further, John Doe’s experience with Spatafore/CHCC
21 is now well known in the Fresno Police Department and frequently comes up in discussions with
22 John Doe’s subordinates, significantly from February 2022 through the present where John Doe has
23 been asked to guide subordinates on best practices to avoid similar events and defamatory
24 experiences – and in doing so has been forced to republish false defamatory claims about him.

25 57. These publications by SPATAFORE individually, and as an agent of CHCC,
26 were outrageous, negligent, reckless, intentional, and maliciously published and republished by
27 Defendants by and through their agents and employees. Plaintiff is informed and believe that the
28 negligent, reckless, and intentional publications by Defendants were and continue to be, foreseeably

1 published and republished by Defendants, their agents and employees, to recipients in the
2 community. These foreseeable republications included those that Plaintiff was forced and compelled
3 to republish, in an attempt to protect and contest the serious damage such defamatory statements did
4 to his reputation. Plaintiff hereby seeks damages for these publications and all foreseeable
5 republications discovered up to the time of trial.

6 58. During the above-described time-frame, Defendants conspired to and did
7 negligently, recklessly, and intentionally cause excessive and unsolicited publication and
8 republication of defamatory statements, of and concerning Plaintiff, to third persons, who had no
9 need or desire to know. Those third person(s) to whom these Defendants published such defamatory
10 statements are believed to include, but are not limited to, other agents and employees of Defendants
11 and the community, all of whom are known to Defendants but unknown at this time to Plaintiff.

12 59. The defamatory publications consisted of oral and written, knowingly false
13 and unprivileged communications, tending directly to injure Plaintiff and Plaintiff's personal,
14 business, and professional reputations. These publications included the following false and
15 defamatory statements (in violation of Civil Code §§45 and 46(3)(5)) directly or impliedly stating
16 that Plaintiff violated Defendant Employers' policy, engaged in misconduct, and/or engaged in
17 insubordination. These and similar false statements published by Defendants expressly and
18 impliedly published that Plaintiff was incompetent, dishonest, engaged in dishonesty, and was a poor
19 employee.

20 60. Plaintiff believes and fears that these false and defamatory per se statements
21 will continue to be published by Defendants and will be foreseeably republished by their recipients,
22 all to the ongoing harm and injury to Plaintiff's professional, and personal reputations. Plaintiff also
23 seeks redress in this action for all foreseeable republications, including his own compelled
24 self-publication of these defamatory statements.

25 61. The defamatory meaning of all of the above-described false and defamatory
26 statements and their reference to Plaintiff was understood by the above-referenced third person
27 recipients and other members of the community who are known to Defendants but unknown to
28 Plaintiffs at this time.

1 62. None of Defendants' defamatory publications against Plaintiff referenced
2 above are true.

3 63. The above defamatory statements were understood as assertions of fact, and
4 not as opinion. Plaintiff is informed and believes this defamation will continue to be negligently,
5 recklessly, and intentionally published and foreseeably republished by Defendants and foreseeably
6 republished by recipients of Defendants' publications, thereby causing additional injury and damages
7 for which Plaintiff seeks redress by this action.

8 64. These publications of defamation were malicious and with the intent to harm
9 and damage JOHN.

10 65. Each of these defamatory publications by Defendants were made with
11 knowledge that no investigation supported the unsubstantiated and obviously false statements. The
12 Defendants published these statements knowing them to be false, unsubstantiated by any reasonable
13 investigation, and as a result of SPATAFORE's hatred for JOHN. These acts of publication were
14 known by Defendants to be negligent to such a degree as to be reckless. In fact, not only did
15 Defendants have no reasonable basis to believe these statements, but they also had no belief in the
16 truth of these statements, and, in fact, knew the statements to be false. Defendants excessively,
17 negligently, and recklessly published these statements to individuals with no need to know, and who
18 made no inquiry, and who had a mere general or idle curiosity regarding this information.

19 66. The above complained-of publications by Defendants were made with hatred
20 and ill will towards Plaintiff and with the design and intent to injure Plaintiff's good name, his
21 reputation, and employability. Defendants published these statements, with an illegal purpose, not
22 with an intent to protect any interest intended to be protected by any privilege, but with negligence,
23 recklessness and/or an intent to injure Plaintiff and destroy his reputation. Therefore, no privilege
24 exists to protect any of the Defendants from liability for any of these afore-mentioned publications
25 or republications.

26 67. As a proximate result of the publication and republication of these defamatory
27 statements by Defendants Plaintiff has suffered injury to his personal, business and professional
28 reputations including suffering embarrassment, humiliation, severe emotional distress, shunning,

1 anguish, fear, and significant economic loss, all to Plaintiff's economic, emotional, and general
2 damage in an amount according to proof.

3 68. Defendants committed the acts alleged herein recklessly, maliciously,
4 fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff for an improper and
5 evil motive amounting to malice (as described above), and which abused and/or prevented the
6 existence of any conditional privilege, which in fact did not exist, and with a reckless and conscious
7 disregard of Plaintiff's rights. All actions of Defendants their agents and employees, herein alleged
8 were known, authorized, ratified aor approved by the Defendants. Plaintiff thus is entitled to
9 recover punitive and exemplary damages from Defendants for these wanton, obnoxious, and
10 despicable publication of defamatory statements, in an amount based on the wealth and ability to pay
11 according to proof, at the time of trial.

12 WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them,
13 as follows:

14 1. For compensatory damages, for each Plaintiff, relating to economic injury,
15 and emotional distress damages, including physical manifestations of emotional distress, all in an
16 amount according to proof but not less than \$5,550,000.00, for each Plaintiff;

17 2. For punitive damages against each Defendant in an amount according to
18 proof;

19 3. Reasonable attorney's fees and costs under any applicable statutory authority,
20 including, but not limited to, CCP Section 1021.4, Civil Code Section 56.35, Business and
21 Professions Code Section 17529.8; Civil Code Section 3344 and other applicable provisions of the
22 Code;

23 4. For prejudgment interest under Civil Code §3288, CCP §998, and any other
24 applicable statutory authority;


25 5. For fines, penalties and other available statutory remedies under any and all
26 available penal and civil codes, including, but not limited to, Civil Code Sections 56.35, Business
27 and Professions Code Section 17529.5, and 56.36 (which provide remedies and civil fines on a per
28

1 violation basis and as otherwise set forth in the applicable section), and in an amount according to
2 proof; and

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6. For all other relief as shall be deemed by the Court to be proper.


Dated: August 31, 2022

WHELAN LAW GROUP,
A Professional Corporation

By Brian D. Whelan, Esq.
Attorneys for JOHN, JANE, and DAUGHTER DOE

JURY DEMAND

Plaintiffs request that each and every factual issue raised by each and every cause of
action alleged above be tried by a jury.

Dated: August 31, 2022

WHELAN LAW GROUP,
A Professional Corporation

By Brian D. Whelan, Esq.
Attorneys for JOHN, JANE, and DAUGHTER DOE

1 **PROOF OF SERVICE**

2 I am employed in the County of Fresno, State of California. I am over the age of 18 years
3 and not a party to this action. My business address is: Whelan Law Group, A Professional
4 Corporation, 1827 East Fir Avenue, Suite 110, Fresno, California 93720. On August 31, 2022, I
caused to be served the within document(s): **SECOND AMENDED COMPLAINT; AND JURY
DEMAND**

- 5 () **VIA FAX:** by causing to be transmitted via facsimile the document(s) listed above to the
6 fax number(s) set forth below on this date.
- 7 () **BY HAND DELIVERY:** by causing to be personally delivered the document(s) listed
8 above to the person(s) at the address(es) set forth below on this date.
- 9 (X) **BY MAIL:** by placing the envelope, addressed to addresses below, for collection and
10 mailing on the date following our ordinary business practices. I am readily familiar with this
11 business' practice for collecting and processing correspondence for mailing. On the same day
12 that correspondence is placed for collection and mailing, it is deposited in the ordinary course
13 of business with the United States Postal Service in a sealed envelope with postage fully
14 paid.
- 15 () **BY PERSONAL SERVICE:** by causing document(s) listed above to be personally served
16 to the person(s) at the address(es) set forth below.
- 17 () **BY EXPRESS MAIL DELIVERY:** by causing document(s) listed above to be deposited
18 with the United States Express Mail Service for delivery to the person(s) at the address(es)
19 set forth below.
- 20 () **BY ELECTRONIC SERVICE:** by causing document(s) listed above to be electronically
21 mailed to the e-mail addresses listed below.

22 Ian Wieland
23 Sagaser, Watkins & Wieland PC
24 5260 N. Palm Ave. Ste. 400
25 Fresno, CA 93704
26 Tel: (559) 369-2734
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Fresno, CA 93710
Tel: 559-438-2390
Fax: 559-438-2393

Counsel for John Christopher Spatafore

Counsel for Community Hospitals

29 I declare under penalty of perjury under the laws of the State of California that the
30 foregoing is true and correct.

31 Executed on August 31, 2022, at Fresno, California.

32 
33 _____
34 STACEY VUE