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7 UNITED STATES DISTRICT COURT  
8 CENTRAL DISTRICT OF CALIFORNIA-EASTERN DIVISION

9 CV 11

Case No. 01994

JHN

(OPx)

10 DENNIS D. WILCOX, M.D., )

11 )  
12 )  
13 Plaintiff, )

14 v. )

15 HI-DESERT MEMORIAL HEALTHCARE )  
16 DISTRICT, a California Corporation doing )  
17 business as HI-DESERT MEDICAL )  
18 CENTER, MEDICAL EXECUTIVE )  
19 COMMITTEE OF THE MEDICAL STAFF )  
20 OF HIGH DESERT MEDICAL CENTER, )  
21 an entity whose form is unknown, )  
22 MADHUSUDHAN GUPTA M.D., )  
23 ANDRE KASKO D.O., AYED )  
24 GHARGHOURY M.D., W. STEPHEN )  
25 BUSH M.D., RENATO GUZMAN, M.D., )  
26 EDWARD COOPER M.D., JEFFREY )  
27 SEIP M.D., SUMIT MAHAJAN M.D., )  
28 HOMAN M.D. ABDOLLAH ZADEH )  
M.D., and LIONEL CHADWICK PHD, )

Defendants. )

PLAINTIFF'S COMPLAINT FOR  
VIOLATION OF CONSTITUTIONAL  
RIGHTS, 42 USC 1983 & INTENTIONAL  
AND NEGLIGENT INTERFERENCE WITH  
CONTRACT

JURY TRIAL DEMANDED

Plaintiff DENNIS D. WILCOX, M.D. by and through his attorneys, the Law Offices of

1 David M. Korrey, by David M. Korrey Esq. for complaint against the above-named defendants,  
2 states as follows:

3 **GENERAL ALLEGATIONS**

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5 1. This action arises under Sections 1983 and 1988 of Title 42 of the United States Code  
6 (42 U.S.C. Sections 1983, 1988). This court is vested with jurisdiction pursuant to Sections 1983  
7 and 1988 of Title 42 of the United States Code. Plaintiff also invokes the pendant jurisdiction of this  
8 Court to decide the asserted common law tort claims. The amount of controversy exceeds the  
9 minimum jurisdictional limits of this court, excluding interest and costs.

10  
11 2. Venue is properly established in this judicial district pursuant to 28 U.S.C. Section  
12 1391(b) in that a substantial part of the events that give rise to Plaintiff's claims took place within  
13 the Eastern Division of the Central District Court for California.

14 **PRELIMINARY STATEMENT**

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16 3. This is a civil rights action against the employees and officials of the HI-DESERT  
17 MEMORIAL HEALTHCARE DISTRICT, a California Corporation doing business as HI-DESERT  
18 MEDICAL CENTER (hereinafter "HI-DESERT") for depriving WILCOX of established  
19 constitutional and common law rights.

20  
21 4. WILCOX is a provisional member of the medical staff at HI-DESERT and has been  
22 active in expressing his concerns both orally and in writing that the care at this facility is sub-  
23 standard and that certain providers have acted contrary to the best interests of the patients there.  
24 WILCOX is also the secretary of the HI-DESERT MEMORIAL HEALTHCARE DISTRICT board  
25 of directors, where he has similarly expressed these concerns.

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27 5. The Medical Staff members at HI-DESERT identified below and certain  
28 administrative employees of HI-DESERT also identified below acting under color of law have acted

1 to interfere with the practice of medicine by WILCOX and to otherwise retaliate against him for his  
2 exercise of his first amendment rights of free speech. Such actions have included but not been  
3 limited to an economic boycott of his practice, an interference with his practice privileges, making  
4 false and defamatory statements against him, contacting his patients and attempting to steer them to  
5 other providers, interfering with his contract for medical services with HI-DESERT and other similar  
6 actions.  
7

8 6. This action specifically challenges the Defendants' denial of Plaintiff's rights secured  
9 under the First and Fourteenth Amendments to the United States Constitution (Art.I, U.S.  
10 Constitution, Art. XIV, U.S. Constitution) and 42 U.S.C. Section 1983, and Defendants' tortious  
11 intentional and negligent interference with contract.  
12

### 13 PARTIES

14 7. Plaintiff DENNIS D. WILCOX M.D. (hereinafter "WILCOX") is a citizen of the  
15 United States and a resident of Pioneertown, County of San Bernardino, State of California, which  
16 is within the Eastern Division of the Central District of the State of California. The acts and  
17 omissions complained of herein occurred primarily in Joshua Tree, County of San Bernardino, State  
18 of California which is within the Eastern Division of the United States District Court for the Central  
19 District of the State of California.  
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21 8. Defendant HI-DESERT is a hospital district organized under the law of the State of  
22 California. Defendant MEDICAL EXECUTIVE COMMITTEE OF THE MEDICAL STAFF of HI-  
23 DESERT MEDICAL CENTER (hereinafter "MEC") is an entity formed under the supervision and  
24 control of HI-DESERT. MEC was ostensibly formed and directed by HI-DESERT to govern the  
25 members of the HI-DESERT Medical Staff allowed to practice at the medical facility owned and  
26 operated by HI-DESERT. MEC appears to be an entity controlled and directed by HI-DESERT. In  
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1 fact, the MEC is allowed to operate in the manner that HI-DESERT essentially gives up its control  
2 of determining who is allowed to practice medicine at its facility to the MEC. The MEC essentially  
3 sets custom and policy of HI-DESERT and its actions are adopted in a blanket manner by HI-  
4 DESERT.

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6 9. Defendants MADHUSUDHAN GUPTA M.D.(hereinafter "GUPTA"), ANDRE  
7 KASKO D.O. (hereinafter "KASKO"), AYED GHARGHOURY M.D.(hereinafter  
8 "GHARGHOURY"), W. STEPHEN BUSH M.D.(hereinafter "BUSH"), RENATO GUZMAN  
9 M.D.(hereinafter "GUZMAN"), EDWARD COOPER M.D (hereinafter "COOPER"), JEFFREY  
10 SEIP M.D.(hereinafter "SEIP"), and SUMIT MAHAJAN M.D.(hereinafter "MAHAJAN"), were  
11 at all times relevant to the incident which is the subject of this action were members of the MEC who  
12 initiated, authorized and/or ratified the acts against WILCOX complained of here. The acts of these  
13 defendants which are the subject of this lawsuit were undertaken in the regular course of their  
14 activities as members of the MEC and/or while each was acting under the color of authority of the  
15 laws of the State of California. Each of these defendants was the servant, agent and employee of co-  
16 defendant HI- DESERT so that each defendant's acts and/or omissions are imputed to this co-  
17 defendant. Each of these defendants is sued both individually and in his official capacity.

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20 10. Defendant LIONEL CHADWICK PHD (hereinafter "CHADWICK") is the current  
21 Chief Executive Officer of HI-DESERT. CHADWICK initiated, authorized and/or ratified many  
22 of the acts against WILCOX complained of here. His actions which are the subject of this lawsuit  
23 were undertaken in the regular course of his duties as Chief Executive Officer of HI-DESERT  
24 and/or while he was acting under the color of authority of the laws of the State of California. He was  
25 the servant, agent and employee of co-defendant HI- DESERT so that each of his acts and/or  
26 omissions are imputed to this co-defendant. He is sued both individually and in his official capacity.

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1           11. Defendant HOMAN M.D. ABDOLLAH ZADEH M.D.(hereinafter "ZADEH") at  
2 all relevant times here was a physician practicing at HI-DESERT who provided endoscopic  
3 procedures to patients at HI-DESERT. He acted in concert with above individual defendants in an  
4 effort to harm WILCOX in the manner described below.

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6           12. WILCOX is informed and believes and thereon alleges, that at all times relevant to  
7 the incident which is the subject matter of this lawsuit, the individual defendants and each of them,  
8 willfully and knowingly conspired and agreed among themselves to do the acts and things as set forth  
9 below in furtherance of and pursuant to the conspiracy. Said defendants and each of them, furthered  
10 the conspiracy by cooperation with and/or lent aid and/or encouragement to and/or ratified and  
11 adopted the acts of the remaining defendants, and each of them.

12  
13           13. On information and belief, WILCOX believes that other persons may have acted in  
14 concert with the individual defendants here in an effort to further the goals of these defendants and  
15 to interfere with his rights as set out below. As these persons are identified, leave will be sought from  
16 the court to amend this Complaint to add these parties to this action.

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18                                           **STATEMENT OF FACTS**

19           14. On May 1, 2007, WILCOX entered into an series of agreements with HI-DESERT to  
20 provide medical services for patients being treated at its hospital at Joshua Tree, California. These  
21 agreements included WILCOX and HI-DESERT entering into a Physician's Recruitment Agreement  
22 providing WILCOX with an income guarantee, a Physician Agreement and an On-Call Clinical  
23 Service Agreement providing for emergency services coverage by WILCOX. At the same time HI-  
24 DESERT by and through the MEC extended Provisional Medical Staff privileges to WILCOX  
25 allowing him to perform a number of medical procedures including general surgery and endoscopic  
26 and laproscopic procedures.  
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1           15.     The hospital operated by HI-DESERT at Joshua Tree, California has a number of  
2 practitioners on its medical staff who commute to the facility and who do not live in the local  
3 community, creating a situation that is sometimes called the “Hi-Desert Delay” due to the delays  
4 patients face who need medical services in the community. These delays can result in serious dangers  
5 to patients at the facility when practitioners on the medical staff delay critical treatment to the  
6 patients to accommodate the practitioner’s own medical schedule. This situation also requires in  
7 some critical care instances that patients face long and difficult transport to the more populated areas  
8 of San Bernardino and Riverside Counties to secure immediate treatment.  
9

10           16.     When WILCOX began practicing at HI-DESERT he moved to the community from  
11 San Diego County, California, opened an office adjacent to the hospital operated by HI-DESERT  
12 at Joshua Tree, California and began active participation in providing needed medical services to  
13 patients in accordance with his practice privileges.  
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15           17.     WILCOX also ran for and was elected to the board of directors for HI-DESERT and  
16 is currently the secretary of the board of directors.  
17

18           18.     Shortly after joining the staff at HI-DESERT, WILCOX was assigned surgical  
19 coverage for the hospital emergency room on the basis of his having responsibility to cover two (2)  
20 weeks of every month, with the other two (2) staff surgeons covering one (1) week each month.  
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22           19.     After starting to practice at HI-DESERT, WILCOX became aware of serious  
23 medical care and treatment deficiencies at the hospital and became pro-active in addressing these  
24 serious deficiencies.  
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26           20.     Though there are several instances where WILCOX found serious medical care and  
27 treatment deficiencies at the hospital and voiced his concerns regarding them, the following are  
28 representative examples of these instances:

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(a) On August 6, 2007, WILCOX was called upon to consult as the general surgeon on call for a patient who was admitted to HI-DESERT with acute abdominal pain and signs of infection. He soon discovered that the patient was suffering from an obstructed kidney and needed a kidney stone removed by a urologist who performs this service rather than a general surgeon who does not. The patient was in extreme pain and had a fever of 103. WILCOX called the urologist on the medical staff at HI-DESERT to come to treat this patient with an emergency requiring services in his specialty. WILCOX called his office and was told by the urologist's wife, who was working as his secretary, that the urologist would not speak to him but would come in later in the day to see the patient. WILCOX informed her that the situation required immediate attention and that if the urologist would not see the patient in the next three (3) hours the patient's condition would require his transport to another hospital. Two (2) hours later the the urologist called back and said he was not able to come to see the patient. WILCOX spent the next several hours attempting to arrange the transfer of the patient. This was delayed because transfers such as this require an accepting specialist at the destination hospital who is willing to take the patient. WILCOX was finally able to contact another urologist at Desert Regional Hospital who would accept the patient, but the urologist could not arrange for an operating room to perform the stone-removal surgery the patient needed until midnight. The urologist at Desert Regional Hospital suggested a procedure called an emergency nephrostomy be performed by a radiologist at HI-DESERT as an alternative to transporting this critically ill patient. This procedure requires the radiologist to place a tube into the kidney under X-ray guidance to relieve the

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pressure of the obstruction and to drain the infection. This is necessary to save the kidney if the stone blocking the outlet of the kidney cannot be removed. During this delay the patient continued to have agonizing pain. WILCOX was able to enlist the aid of a radiologist at HI-DESERT who successfully performed the nephrostomy and relieved the patient's suffering and saved his kidney. As a result of this incident WILCOX wrote BUSH who was the Chief of Staff at HI-DESERT and a member of the MEC expressing his concerns about the HI-DESERT staff urologist's actions. WILCOX asked the simple question of whether the urologist's accepting a consultation and then reporting two (2) hours later that he was not available "is acceptable professional behavior" at HI-DESERT. BUSH failed to respond to this question and failed to take any action to correct this situation and other similar situations.

(b) Unknown to WILCOX at the time, there had already been serious complaints about the competency of this urologist which had been raised by one of the senior nurses to not only her superiors in the operating room but also to SEIP and BUSH. Despite the fact that this urologist had likely compromised the safety and health of a number of the patients he had treated at HI-DESERT, no one took action to correct this serious problem.

(c) WILCOX eventually became aware of this action, and began voicing his concerns that the practices of this urologist were inappropriately being tolerated at HI-DESERT. WILCOX met with the operating room nurse and BUSH about this issue and was made keenly aware by BUSH that since WILCOX was not a member of the active medical staff and since WILCOX was not privy to their actions, he could not

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expect any feedback on this issue.

(d) It was difficult for WILCOX, but he made a sincere effort to work with the practitioners at HI-DESERT despite the fact that many times he was called upon after patient care had been delayed and he had not been called to see the patient for an obvious problem requiring his services as a general surgeon. Many hospital employees referred to this problem as the “Hi-Desert delay.” Many of the specialist physicians on the staff live far away in the Coachella Valley. It is inconvenient for them to drive to HI-DESERT to attend patients who may or may not be able to pay them. These specialists would not vary from their pre-determined schedules even if the patients were critically ill. One the these specialists ZADEH was unwilling to see patients at HI-DESERT more than one(1) day a week. WILCOX found on many occasions that a specialist could not be obtained in a timely fashion and was compelled by the patient’s acute illness to transfer the patient “down the hill” to a hospital in the Coachella Valley or to other hospitals hours away by ambulance or helicopter.

(e) In May of 2008, WILCOX was faced with substantial difficulties in arranging for anesthesia services for patients needing emergency surgery. He communicated to GUPTA who was at the time the Chief of the Medical Staff at HI-DESERT and SEIP who was at the time the Chief of Surgery at HI-DESERT that the situation of delayed starts in surgery at the hospital was compromising patient safety. WILCOX was told that the reason that HI-DESERT did not secure a substitute anesthesiologist was due to its failure to approve the funds to secure a substitute anesthesiologist to provide coverage for an anesthesiologist who was on vacation. WILCOX expressed

1 to these Defendants that if HI-DESERT was “committed to having three anesthetists  
2 we should have three anesthetists, and not two who are overstretched and at times  
3 unable to provide timely service.” Again WILCOX’s concerns were met with no  
4 response from the medical staff or the administration.  
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6 (f) From May of 2007 through August of 2008, WILCOX had expressed to both the  
7 responsible emergency medical staff at HI-DESERT, and GUPTA that the emergency  
8 department at the hospital had serious problems jeopardizing patient care. These  
9 cases involved:

10 (1) The HI-DESERT emergency room doctors had routinely not been  
11 contacting WILCOX in a timely manner for patients who required immediate  
12 attention from a surgeon for acute abdominal problems such as peritonitis, an  
13 indication of a life threatening process in the abdominal cavity. Instead,  
14 patients were being admitted to the medical service of non-surgeons, even to  
15 the intensive care unit, without a call to WILCOX when he was the surgeon  
16 on call;  
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18 (2) Concerns regarding the placement by the emergency room doctors of  
19 chest tubes. These tubes are placed between the ribs and into the chest to re-  
20 expand the lung when it collapses. Instances of complications had occurred.  
21 These included misplacement of the tubes, tubes not being secured properly  
22 and falling out and the emergency room doctor failing to follow up after the  
23 tube was placed with an X-ray to check to see if the tube was situated  
24 correctly;  
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26 (3) Appendicitis issues, including delayed diagnosis and missing ruptures.  
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(g) After discussing the problems in the Emergency Room with the medical director there it was suggested that meetings be held to educate and assist the emergency room doctors to improve their care of surgical patients. These meetings were postponed and delayed and finally cancelled for reasons unknown to WILCOX at the time. WILCOX was made to feel that he should not complain if he wanted to continue to receive consultations from the Emergency Room even when he was on call and was already supposed to get these calls. WILCOX continued to protest the ongoing malfeasance of emergency room doctors, as it put patient's health and safety at serious risk.

(h) In September of 2008, WILCOX was contacted by ZADEH a gastroenterologist on the HI-DESERT medical staff who objected to WILCOX performing an endoscopic procedure on a patient who had also been referred to ZADEH. The patient's medical condition precluded the patient from waiting until ZADEH's usual scheduled time for treatment of patients at the hospital. WILCOX had been requested to consult on this patient by another physician who determined that the patient was acutely ill and could not wait to see ZADEH. In-fact, the patient had uncontrollable vomiting and his condition was deteriorating on an hourly basis. ZADEH lives in the Palm Springs area and is one of many practitioners at HI-DESERT who do not live in the community. Because of ZADEH limiting his schedule at HI-DESERT to only one day per week, he is one of the providers who contributed to the "Hi-Desert Delay". The fact that WILCOX performed the endoscopic procedure enraged ZADEH who demanded that the medical staff take actions to preclude and/or restrict WILCOX from performing endoscopic procedures. Unknown to WILCOX at the time, ZADEH

1 had made these requests to GUPTA and the MEC. WILCOX was so upset by  
2 ZADEH's communication to him, WILCOX wrote a letter to GUPTA and the MEC  
3 requesting that they intercede to establish appropriate levels of procedures and  
4 professionalism at HI-DESERT. Neither GUPTA, SEIP nor anyone else from the  
5 MEC, or anyone associated with HI-DESERT ever responded to WILCOX.  
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7 (i) On May 21, 2009, a patient presented to the HI-DESERT emergency room with acute  
8 abdominal pain she had been experiencing for four (4) days. She had been seen by  
9 MAHAJAN on the second day of this time span who elected to direct her for a CT  
10 scan as opposed to sending her to the emergency room. Unknown to her, the CT scan  
11 showed that she had suffered a ruptured appendix. MAHAJAN failed to call her back  
12 with the results. Finally when the pain became intolerable she persisted in contacting  
13 MAHAJAN who late on the fourth day finally looked at her CT results and directed  
14 her to the emergency room for an emergency surgery. WILCOX performed  
15 successful life-saving appendectomy on this patient. WILCOX discussed the situation  
16 with MAHAJAN who denied responsibility for this serious situation. MAHAJAN  
17 made every effort to avoid referring any cases to WILCOX in retaliation for  
18 WILCOX expressing his concerns about the unnecessary danger of serious harm to  
19 this patient.  
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22 (j) On January 15, 2010, a 76 year old woman came into the HI-DESERT emergency  
23 room after what was supposed to be a routine colonoscopy by ZADEH on January  
24 12, 2010. In performing this procedure, ZADEH had punctured her colon, but instead  
25 of admitting her to the hospital, as is consistent with the appropriate standard of care,  
26 ZADEH sent her home. The patient's condition so deteriorated by January 15, 2010  
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1 that she had a life threatening condition called peritonitis with infection of the  
2 abdominal cavity. She eventually died as a result of ZADEH's and her general  
3 surgeon GUZMAN's failure to provide her with appropriate care. It was particularly  
4 offensive that her death certificate was signed off by a member of the MEC who  
5 falsely claimed the percipient cause of her death was pneumonia instead of peritonitis  
6 from a perforated colon. WILCOX, at that time, had been effectively cut-off and  
7 intimidated from communicating with any responsible MEC member or staff  
8 administrator at HI-DESERT. He was thus unable to express his concerns about this  
9 situation when he was made aware of it, so that this type of incident would not occur  
10 in the future and jeopardize the health and safety of patients at HI-DESERT.

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13 (k) On March 5, 2010, a 69 year old man was brought by paramedics to the emergency  
14 room at HI-DESERT with decreased consciousness and possible infection. He was  
15 intubated, sedated and placed on a ventilator and admitted into intensive care. His  
16 primary physician diagnosed him with acute respiratory failure though upon physical  
17 examination he had clear lungs to auscultation. A chest x-ray showed only an  
18 enlarged heart as it had been in the past. His physician wrote an order for the patient  
19 to be seen by GHARGHOURY who is a pulmonologist to help diagnose the cause  
20 of the respiratory failure and to help adjust the ventilator. GHARGHOURY never  
21 came to see the patient. The patient was kept on sedation without nourishment or  
22 specialist care for the next three (3) days. Finally his primary doctor ordered the  
23 patient transferred to Desert Regional Hospital for another pulmonologist to care for  
24 him. He was then properly extubated and removed from the ventilator which had  
25 not been necessary. Again, WILCOX, at that time, had been effectively cut-off and  
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1           intimidated from communicating with any responsible MEC member or staff  
2           administrator at HI-DESERT. He was thus unable to express his concerns about this  
3           situation when he was made aware of it, so that this type of incident would not occur  
4           in the future and jeopardize health and safety of patients at HI-DESERT.  
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6           (l) On March 11, 2010 a 62 year old patient was referred to WILCOX from the  
7           emergency room. The patient needed emergency surgery due to bowel obstruction.  
8           He had previously been seen by ZADEH for blood in his stool. ZADEH put him off  
9           for one(1) month to perform a colonoscopy even though the patient's problem  
10          warranted an immediate procedure. On March 12, 2010, WILCOX performed the  
11          needed surgery and removed an obstructing cancer from the patient's colon.  
12          WILCOX was unable to discuss the need for this patient and others to get necessary  
13          care on a timely basis with any MEC members and CHADWICK, as no one would  
14          communicate with him regarding patient care.  
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16          (m) On March 14, 2010 WILCOX was asked to consult on a 63 year old man who had  
17          stuck his left hand with a cactus about one (1) week prior. He had been treated with  
18          antibiotics. He presented at the HI-DESERT emergency room with a purple hand that  
19          was very swollen and the patient was delirious. Rather than call WILCOX who was  
20          the surgeon on-call, the admitting emergency doctor admitted the patient to the  
21          internist on duty with a diagnosis of cellulitis, a mild skin infection. Later when the  
22          internist actually examined the patient, he quickly determined that the patient had a  
23          limb threatening infection of the arm and hand and the patient had impending septic  
24          shock. When WILCOX was brought in to perform an emergency surgery on the  
25          patient, he found that the patient had gas gangrene of the arm and hand. After  
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1 performing the appropriate surgery, WILCOX stayed with the patient and arranged  
2 for the patient to be airlifted to Loma Linda Medical Center for further care.  
3 Ultimately the patient lost his arm despite WILCOX's efforts. When WILCOX spoke  
4 to the medical director of the emergency room at HI-DESERT to discuss the delay  
5 in treatment of the patient, WILCOX was told initially that WILCOX could  
6 participate in a review of the case with the Emergency Services Supervisory  
7 Committee at HI-DESERT. The committee meeting was thereafter postponed and  
8 WILCOX was not allowed to attend the meeting when it was held. Again, WILCOX,  
9 at that time, had been effectively cut-off and intimidated from communicating with  
10 any responsible MEC member or staff administrator at HI-DESERT. He was thus  
11 unable to express his concerns about this situation when he was made aware of it, so  
12 that this type of incident would not occur in the future and jeopardize the health and  
13 safety of patients at HI-DESERT.

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16 (n) On May 12, 2010, WILCOX saw a 63 year old patient in the hospital clinic who had  
17 been seen by GUZMAN before. She had been evaluated for rectal bleeding and  
18 severe pain during defecation. GUZMAN had failed to perform a rectal exam, but  
19 simply told her to go on a high fiber diet. When WILCOX performed this exam, he  
20 found that the patient had a large anal cancer. A biopsy confirmed this diagnosis and  
21 the patient underwent rectal resection surgery and a permanent colostomy for her  
22 cancer. GUZMAN and the other individual defendants in this case by this time had  
23 virtually cut-off any communication with WILCOX about patient care and thus  
24 situations such as this one existed but were not being addressed at HI-DESERT all  
25 to the detriment of the patients and the public.  
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(o) On July 17, 2010, WILCOX upon making rounds on one of his critically ill patients who was in the ICU unit of the hospital determined that a pulmonology follow-up was appropriate. This was due to the fact that the patient was on a ventilator because of respiratory failure and was fighting for his life following surgery for a perforation of his bowel. WILCOX had contacted GHARGHOURY who had previously consulted on this patient. GHARGHOURY, the only pulmonologist on staff at HI-DESERT is also on the MEC. When WILCOX made rounds on July 17, 2010, he was advised by the nurse that GHARGHOURY would not be coming in to do rounds that day, since he does not drive up to the hospital every week-end. When WILCOX later visited the patient, he found an order for medication that had been administered to the patient earlier in the day with doctor GHARGHOURY identified as the ordering physician as a “telephonic voice order” in the doctors orders in the patient’s chart. When confronted by WILCOX , the nurse admitted that GHARGHOURY had not initiated the order. Rather, the nurse did it on her own with the belief that as he had done in the past, GHARGHOURY would “cover for her” as GHARGHOURY did not want to be bothered on the week-ends. WILCOX advised the nurse that such procedure was entirely unacceptable and not to be followed in the future. WILCOX told the nurse that if the patient’s needs required, WILCOX could arrange for treatment of the patient and/or order necessary medication(s). On the following Monday, WILCOX was confronted by GHARGHOURY who accused him of being unprofessional and of maligning him with the nurse. WILCOX explained his position to GHARGHOURY and expressed his disappointment that GHARGHOURY was not available on the week-ends to treat such critically ill

1 patients. GHARGHOURY made it clear to WILCOX that WILCOX should keep his  
2 mouth shut about this practice.

3 (p) On September 20, 2010, a patient was admitted to HI-DESERT through the hospital  
4 emergency room and was found to have had a suspicious lump in the breast while  
5 undergoing a CT scan. The admitting emergency room physician wanted to bring  
6 WILCOX in for a consultation regarding the lump. After WILCOX initially  
7 examined her and asked to look at her chart, he was told by the attending nurse that  
8 GHARGHOURY had cancelled the consultation and arranged for another surgeon  
9 to follow-up with the patient. At that time GHARGHOURY had not seen the patient,  
10 but wanted to make sure that WILCOX did not get the opportunity to treat the  
11 patient, all in an ongoing effort to retaliate against WILCOX for his efforts to address  
12 patient health and safety at HI-DESERT.

13 (q) On December 15, 2010, WILCOX was contacted by a patient who he had treated for  
14 three (3) years. The patient indicated to him that GUZMAN had contacted him and  
15 had told him to stop seeing WILCOX and to have his care taken over by a new  
16 surgeon at the hospital. This surgeon was one that ostensibly was brought into HI-  
17 DESERT to assure that there would not be enough business at the HI-DESERT for  
18 WILCOX to be able to maintain the economic viability of his practice there. The new  
19 surgeon at the hospital was sharing office space with GUZMAN at the time.

20 (r) WILCOX after beginning his practice as a surgeon at HI-DESERT immediately  
21 became aware of a practice at HI-DESERT that existed wherein SEIP would  
22 schedule procedures in both operating rooms at HI-DESERT at the same time  
23 preventing other surgeons at the hospital access to any operating room until SEIP  
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1 completed his scheduled procedures. This resulted on numerous occasions in  
2 situations where patients in more urgent need for immediate surgical treatment were  
3 forced to wait until SEIP completed his scheduled procedures. In that HI-DESERT  
4 is a relatively small hospital and in that many of the surgical procedures which  
5 needed to be provided to its patients were emergent in nature, the health and safety  
6 of many of the patients was being compromised by this practice. WILCOX voiced  
7 concerns about this situation to the director of the operating room and asked her  
8 assistance in making an issue of it to the administration and the responsible members  
9 of the MEC. Despite this fact WILCOX persisted expressing his concerns about this  
10 situation and the danger it posed to the patients at HI-DESERT.  
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13 21. When it became apparent that WILCOX would not cease in exercising his  
14 free speech activities to protect the patients of HI-DESERT from unnecessary and dangerous  
15 compromises of their safety, the Defendants and each of them began a course of conduct to  
16 retaliate against WILCOX for exercising these rights by the following actions:

- 17 (a) On April 9, 2009, Defendants placed unreasonable restrictions on WILCOX  
18 which precluded him from performing endoscopic and laparoscopic  
19 procedures at the hospital;  
20  
21 (b) On May 14, 2009, HI-DESERT by and through CHADWICK and GUPTA  
22 reported to the California Medical Board that the foregoing restrictions had  
23 been placed on the practice privileges of WILCOX. Thereafter, HI-DESERT  
24 and GUPTA and the MEC made additional reports to the California Medical  
25 Board with the intention to seek a revocation of WILCOX's medical license;  
26  
27 (c) Thereafter GUPTA, ZADEH, the MEC, and CHADWICK continued their  
28

1 efforts to prevent WILCOX from practicing at HI-DESERT by levying  
2 charges that WILCOX was not competent. This delayed and attempted to  
3 interfere with any meaningful administrative processes available for  
4 WILCOX to appeal these adverse actions, which he undertook in April 21,  
5 2009. This appeal has not yet been resolved after two (2) years, making this  
6 process meaningless;

- 7
- 8 (d) By economically boycotting WILCOX so that no members of the medical  
9 staff would make referrals to him;
- 10 (f) Beginning February of 2010 through April of 2010 by sending a series of  
11 unsigned letters under the caption of "Surgical Service Committee"  
12 demanding explanations as to surgical procedures performed by WILCOX  
13 that were properly documented in the patient files and which there was no  
14 reasonable basis for questioning the care provided by WILCOX;
- 15 (g) Even continuing these practice restrictions when the California Medical  
16 Board determined on June 17, 2010 that there was no basis for any adverse  
17 action to be taken against WILCOX's medical license based upon the  
18 allegations of Defendants;
- 19 (h) For the August 2010 emergency room surgical coverage schedule,  
20 WILCOX was reduced from two (2) weeks to one (1) week per month after  
21 HI-DESERT added another surgeon to the staff, though there was no need to  
22 add such a person;
- 23 (i) Forcing WILCOX to cease practicing at this hospital as he could not perform  
24 enough work at HI-DESERT to survive economically.  
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1           22. Defendants MADHUSUDHAN GUPTA M.D.(hereinafter "GUPTA"), ANDRE  
2 KASKO D.O. (hereinafter "KASKO"), AYED GHARGHOURY M.D.(hereinafter  
3 "GHARGHOURY"), W. STEPHEN BUSH M.D.(hereinafter "BUSH"), RENATO GUZMAN  
4 M.D.(hereinafter "GUZMAN"), EDWARD COOPER M.D.(hereinafter "COOPER"), JEFFREY  
5 SEIP M.D.(hereinafter "SEIP"), SUMIT MAHAJAN, M.D.(hereinafter "MAHAJAN"), HOMAN  
6 M.D. ABDOLLAH ZADEH M.D. (hereinafter "ZADEH") and LIONEL CHADWICK PHD  
7 (hereinafter "CHADWICK") and each of them during this same time period were aware of the  
8 contracts between WILCOX and HI-DESERT described above.  
9

10           23. Defendants MADHUSUDHAN GUPTA M.D.(hereinafter "GUPTA"), ANDRE  
11 KASKO D.O. (hereinafter "KASKO"), AYED GHARGHOURY M.D.(hereinafter  
12 "GHARGHOURY"), W. STEPHEN BUSH M.D.(hereinafter "BUSH"), RENATO GUZMAN  
13 M.D.(hereinafter "GUZMAN"), EDWARD COOPER M.D.(hereinafter "COOPER"), JEFFREY  
14 SEIP M.D.(hereinafter "SEIP"), SUMIT MAHAJAN, M.D.(hereinafter "MAHAJAN"), and  
15 HOMAN M.D. ABDOLLAH ZADEH M.D. (hereinafter "ZADEH")and LIONEL CHADWICK  
16 PHD (hereinafter "CHADWICK") and each of them have intentionally and/or negligently interfered  
17 with these contracts between WILCOX and HI-DESERT such that the contracts have essentially  
18 been canceled in that WILCOX has been so restricted in the services he can perform at HI-DESERT  
19 and his time on the emergency coverage schedule has been so restricted that the value of these  
20 contracts has been lost. The intentions of these defendants in these activities were to deprive  
21 WILCOX of the benefit of these contracts and to protect their interests in recovering fees for services  
22 provided to patients which they might otherwise lose due to WILCOX exercising his first  
23 amendment rights of free speech.  
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27           24. Defendants MADHUSUDHAN GUPTA M.D.(hereinafter "GUPTA"), ANDRE  
28

1 KASKO D.O. (hereinafter "KASKO"), AYED GHARGHOURY M.D.(hereinafter  
 2 "GHARGHOURY"), W. STEPHEN BUSH M.D.(hereinafter "BUSH"), RENATO GUZMAN  
 3 M.D.(hereinafter "GUZMAN"), EDWARD COOPER M.D.(hereinafter "COOPER"), JEFFREY  
 4 SEIP M.D.(hereinafter "SEIP"), SUMIT MAHAJAN, M.D.(hereinafter "MAHAJAN"), HOMAN  
 5 M.D. ABDOLLAH ZADEH M.D. (hereinafter "ZADEH") and LIONEL CHADWICK PHD  
 6 (hereinafter "CHADWICK") and each of them acted with oppression, fraud and/or malice, express  
 7 and/or implied in engaging in the conduct described above. As a result of these actions, the Plaintiff  
 8 in addition to the compensatory damages sought in this action, is entitled to recover damages for the  
 9 sake of example and by way of punishing said Defendants.  
 10

11 **FIRST CAUSE OF ACTION**

12 *(Against All Defendants for Violation of Article I, U.S. Constitution ,42 USC 1983 and 1988)*

13 25. The allegations set forth above in paragraphs 1 through 24 inclusive, are incorporated  
 14 into this cause of action by reference as if set forth in full.  
 15

16 26. The above described conduct of all of these defendants violated WILCOX's right to  
 17 freedom of speech under the First Amendment of the United States Constitution Art. I., U.S.  
 18 Constitution by censoring and chilling WILCOX's speech and deterring him from exercising his  
 19 First Amendment Rights.  
 20

21 27. WILCOX has suffered substantial harm by these actions of the Defendants, including  
 22 but not limited to economic and non-economic damages to be proven at trial, all exceeding the  
 23 jurisdictional threshold of this court.  
 24

25 **SECOND CAUSE OF ACTION**

26 *(Against All Defendants for Violation of Article I, U.S. Constitution ,42 USC 1983 and 1988)*

27 28. The allegations set forth above in paragraphs 1 through 27 inclusive, are incorporated  
 28

1 into this cause of action by reference as if set forth in full.

2 29. The above described conduct of all of these defendants violated WILCOX's right to be  
3 free from retaliatory treatment based upon his exercise of freedom of speech under the First  
4 Amendment of the United States Constitution Art. I, U.S. Constitution by censoring and chilling  
5 WILCOX's speech and deterring him from exercising his First Amendment Rights.  
6

7 30. WILCOX has suffered substantial harm by these actions of the Defendants, including  
8 but not limited to economic and non-economic damages to be proven at trial, all exceeding the  
9 jurisdictional threshold of this court.  
10

### 11 **THIRD CAUSE OF ACTION**

12 *(Against Individual Defendants For Interference With Contract)*

13 31. The allegations set forth above in paragraphs 1 through 30 inclusive, are incorporated  
14 into this cause of action by reference as if set forth in full.

15 32. Defendants MADHUSUDHAN GUPTA M.D.(hereinafter "GUPTA"), ANDRE  
16 KASKO D.O. (hereinafter "KASKO"), AYED GHARGHOURY M.D.(hereinafter  
17 "GHARGHOURY"), W. STEPHEN BUSH M.D.(hereinafter "BUSH"), RENATO GUZMAN,  
18 M.D.(hereinafter "GUZMAN"), EDWARD COOPER M.D.(hereinafter "COOPER"), JEFFREY  
19 SEIP, M.D.(hereinafter "SEIP"), SUMIT MAHAJAN, M.D.(hereinafter "MAHAJAN"), HOMAN  
20 M.D. ABDOLLAH ZADEH M.D. (hereinafter "ZADEH") and LIONEL CHADWICK PHD  
21 (hereinafter "CHADWICK") have actively interfered with these contracts between WILCOX and  
22 HI-DESERT such that the contracts have essentially been canceled in that WILCOX has been so  
23 restricted in the services he can perform at HI-DESERT and his time on the emergency coverage  
24 schedule has been so restricted that the value of these contracts has been lost.  
25

26 33. The intentions of these defendants in these activities were to deprive WILCOX of the  
27  
28

1 benefit of these contracts and to protect their interests in recovering fees for services provided to  
2 patients which they might otherwise lose due to WILCOX exercising his first amendment rights of  
3 free speech.

4  
5 34. WILCOX has suffered substantial harm by these actions of the Defendants, including  
6 but not limited to economic and non-economic damages to be proven at trial, all exceeding the  
7 jurisdictional threshold of this court.

8 **REQUEST FOR RELIEF**

9 WHEREFORE, Plaintiff requests judgment against defendants as follows:

- 10 1. Economic damages suffered by Plaintiff in an amount according to proof;  
11 2. Non-economic damages suffered by Plaintiff in an amount according to proof;  
12 3. For punitive and exemplary damages;  
13 4. Prejudgment interest;  
14 5. Costs of suit; and  
15 6. An award of costs, including attorney fees pursuant to  
16 42 USC section 1988; and  
17 7. Any other and further relief that the court considers  
18 just and proper.  
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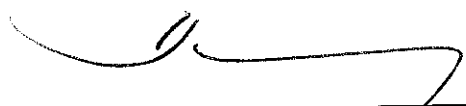
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**DEMAND FOR JURY TRIAL**

Pursuant to Federal Rules of Civil Procedure, Rule 38(b), Plaintiff demands trial by jury for all issues pled so triable.

Respectfully Submitted by,

LAW OFFICES OF DAVID M. KORREY

  
\_\_\_\_\_  
By: David M. Korrey, Attorneys  
for Plaintiff DENNIS D. WILCOX

Date 3-4-11