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September 14, 2023

Via email only at [county.clerk@mauicounty.us](mailto:county.clerk@mauicounty.us)

Honorable Alice L. Lee, Chair  
and Members of the Council  
County of Maui  
Wailuku, Hawaii 96793

SUBJECT: Alexa Jacobs vs. Clifton Perreira, et al.;  
Civil No.: 2CCV-23-0000185  
Authorizing the Employment of Special Counsel

Dear Chair Lee and Council Members:

Please find attached separately a proposed resolution entitled "AUTHORIZING THE EMPLOYMENT OF SPECIAL COUNSEL ES&A, INC., A LAW CORPORATION, IN ALEXA JACOBS vs. CLIFTON PERREIRA, ET AL.: CIVIL NO.: 2CCV-23-0000185." The purpose of the proposed resolution is to hire special counsel to litigate this case. Attached herewith is a copy of the filed Complaint.

I respectfully request the proposed resolution be scheduled for discussion and action, or referral to the appropriate standing committee as soon as possible, as time is of the essence. An extension to Answer the Complaint expires on October 5, 2023.

An executive session may be necessary to discuss questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and/or the Committee.

Should you have any questions or concerns, please do not hesitate to contact us. Thank you for your anticipated assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "John J. Gores".  
JOHN J. GORES  
Deputy Corporation Counsel

cc: John Pelletier, Chief of Police  
Attachments

RECEIVED  
2023 SEP 15 PM 2:43  
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**SECOND CIRCUIT**  
**2CCV-23-0000185**  
**06-JUL-2023**  
**08:39 AM**  
**Dkt. 1 CMP**

Attorneys for Plaintiff  
ALEXA JACOBS

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

STATE OF HAWAII

ALEXA JACOBS,

Plaintiff,

vs.

CLIFTON PERREIRA, JEREMY PALLONE-  
DE LA TORRE, ANDREW CABRAL,  
NOLAN WADA, JOHN DOES 1-10, JANE  
DOES 1-10, DOE CORPORATIONS 1-10,  
DOE GOVERNMENTAL ENTITIES 1-10,

Defendants.

CIVIL NO. \_\_\_\_\_  
(Other Non-Vehicle Tort)

COMPLAINT; DEMAND FOR JURY  
TRIAL

COMPLAINT

Plaintiff ALEXA JACOBS, by and through her attorneys, Michael Jay Green and Peter C.

Hsieh, for a Complaint against the above-named Defendants, alleges and avers as follows:

## JURISDICTION AND VENUE

1. This Court has jurisdiction pursuant to Hawaii Revised Statutes (“HRS”) §§ 603-21.5 and 634-35, because the relevant events occurred in the County of Maui, State of Hawaii.

2. Venue is proper in this Court pursuant to HRS § 603-36(5) because Plaintiff’s claims arose in this judicial district in the County of Maui, State of Hawaii.

## PARTIES

3. Plaintiff ALEXA JACOBS (“Plaintiff”) is, and was at all relevant times herein, a resident of the County of Maui, State of Hawaii.

4. Defendant CLIFTON PERREIRA (“Perreira”) is, and was at all relevant times herein, a resident of the County of Maui, State of Hawaii.

5. Defendant JEREMY PALLONE-DE LA TORRE (“Pallone-De La Torre”) is, and was at all relevant times herein, a resident of the County of Maui, State of Hawaii.

6. Defendant ANDREW CABRAL (“Cabral”) is, and was at all relevant times herein, a resident of the County of Maui, State of Hawaii.

7. Defendant NOLAN WADA (“Wada”) is, and was at all relevant times herein, a resident of the County of Maui, State of Hawaii.

8. Perreira, Pallone-De La Torre, Cabral, and Wada collectively are hereinafter referred to as “Defendants”.

9. Defendants JOHN DOES 1-10, JANE DOES 1-10, DOE CORPORATIONS 1-10, DOE GOVERNMENTAL ENTITIES 1-10 DOES 1-20 are sued herein under fictitious names for the reason that their true names, capacities and responsibilities are presently unknown to Plaintiff, but upon information and belief they are persons, entities, governmental agencies, and/or partnerships who were in some manner presently unknown to Plaintiff engaged in the activities

alleged herein; and/or are in some manner responsible for the injuries and damages to Plaintiff; and/or are persons who conducted some activity in a negligent, wrongful, and/or willful manner or who failed to fulfill a duty or obligation, which action, conduct, error or omission was the proximate cause of injuries or damages to Plaintiff; and/or were in some manner related to the previously named Defendants engaged in the activities alleged herein. Plaintiff will seek leave to amend this Complaint when the true names and capacities of the Doe Defendants have been ascertained.

### FACTUAL ALLEGATIONS

#### Incident

10. Maui Police Department (the “MPD”) is the law enforcement agency of the County.
11. MPD annually conducts a police recruitment program for new police officers.
12. Perreira was at all relevant times herein a Lieutenant of the MPD.
13. Pallone-De La Torre was at all relevant times herein a Detective of the MPD.
14. Cabral was at all relevant times herein a Sergeant of the MPD.
15. Wada was at all relevant times herein a police officer of the MPD.
16. Plaintiff was at all relevant times herein a new police recruit of the MPD’s 92nd Recruit Class undergoing police recruit training.
17. Defendants, and each of them, were at all relevant times herein in charge of running the 92nd Recruit Class through a five-month recruit training program.
18. The recruit program used to be an eight-month program before the MPD cut it down to five months, and the 92nd Recruit Class was the first group to undergo the new shortened program.

19. On about February 4, 2022, in the County of Maui, State of Hawaii, Plaintiff – a police recruit – was hospitalized for life-threatening heatstroke and coma caused by hazing at the hands of the Defendants who were her training officers (“Incident”).

20. The hazing was at all relevant times herein a ritualistic practice commonly referred to as “Beat-Down Friday”.

21. “Beat-Down Friday” was a practice training officers utilized on the first Friday of academy, to inflict pain, discomfort, humiliation, and/or embarrassment, to beat down the new recruits seeking membership to the police department until they drop out.

22. The practice involved the imposition of strenuous, often humiliating and dangerous, tasks on the recruits.

23. Plaintiff was one of two female recruits in the 92nd Recruit Class.

24. Two different women in the two prior academy classes had suffered heat exhaustion. A female recruit in the 91st Recruit Class suffered heat stroke during physical training. Another female in the 90th Recruit Class suffered heat exhaustion on Beat Down Friday.

25. On the day of the Incident (February 4, 2022), Defendants started the day with the recruits at the Kihei Police Station. At around 10:30 a.m. they excused them for lunch and told them to meet back around 11:00 a.m. at the Wailuku Police Station for their physical fitness assessment (“PT Assessment”).

26. Defendants commenced the PT Assessment around 11:00 a.m. to 11:30 a.m. inside the gym at the Wailuku Police Station where they made the recruits perform vertical jumps and bench presses.

27. Immediately after that, around 12 noon, Defendants ordered the recruits to run one quarter of a mile from the police station to the War Memorial Stadium.

28. Once they got to the War Memorial Stadium, Defendants had the recruits perform the rest of the PT Assessment, including a 1.5 mile run around a track (six times around the track), a 300-meter sprint, and pushups and sit ups.

29. Upon the completion of the PT Assessment, Defendants, and each of them, could see that the recruits were fatigued and dehydrated.

30. Rather than calling it a day and sending the recruits back to the gym to shower and rest, Defendants decided to crank up the pressure on the recruits by ordering them to do an extra cross-country run.

31. The cross-country run was not part of the standard PT Assessment but an extra task imposed on the recruits as part of “Beat-Down Friday”.

32. Defendants’ decision to make the recruits do the extra cross-country run in the middle of the day would prove to be near-fatal. February 4th was one of the hottest days in February 2022. Defendants knew it and could feel it. The outdoor temperature was around 83°F, and the humidity was 84.8%, which was uncomfortable if not unbearable.

33. Defendants knew or reasonably should have known that making the recruits do the cross-country run under these harsh conditions posed a serious health risk that could cause a recruit to suffer serious and sometimes fatal heat exhaustion or heatstroke.

34. Defendants, and each of them, disregarded the potential threat to the recruits’ health and made them do the run.

35. Defendants started the recruits off with a one-half mile run around the track, led by Cabral who was going over hand signals that they needed to know once they start running on the road.

36. They then led the recruits out of the War Memorial Stadium, down Kanaloa Avenue to Kaahumanu Avenue, then east on Kaahumanu Avenue to Kahului Beach Road, before turning onto Kahului Beach Road and heading north down that road, then turned back onto Kanaloa heading back towards the War Memorial Stadium.

37. Defendants told the recruits that during this run if a recruit fell behind, the rest of the class would have to stop and do push-ups, sit-ups, or any kind of punishment while waiting for the straggling classmate to catch up.

38. When they were about a half a mile from the War Memorial Stadium, a few other classmates fell behind, and Defendants ordered Plaintiff and two other classmates, Taylor Lee and Goro Iijima, to stop on Kanaloa Avenue and start doing “sun gods” until their classmates caught up.

39. “Sun gods” is a physical routine where one stands with arms sticking straight out and doing small-arm circles while counting each one out loud.

40. Plaintiff by this point in time was unable to speak and not able to say the numbers while doing the “sun gods” because she was just trying to focus on her heart rate and breathing.

41. After the straggling classmates caught up, Plaintiff and her classmates resumed running up Kanaloa Avenue.

42. This is when Plaintiff started to fall back a bit from the group due to extreme exhaustion.

43. Cabral could see Plaintiff was wearing down and needed rest.

44. But he ignored the obvious signs of exhaustion and used it as an opportunity to beat Plaintiff down, riding on her and ordering her to push harder and run faster.

45. Plaintiff was so exhausted that she barely had enough strength to tell Cabral, “I’m sorry, I am giving everything I have”, but Cabral didn’t care and just kept on her, pressuring her to run faster.

46. Plaintiff then caught up to her classmates.

47. Once they were on the dirt path outside of the Maui Nui Botanical Gardens Defendants ordered Plaintiff and her classmates to stop because one of their classmates had gone from running to walking, and needed to catch up.

48. While the class was waiting for their classmate to catch up, Defendants ordered them to get into a front leaning rest position, much like a plank, which is a strenuous isometric core strength exercise that involves maintaining a position similar to a push-up for the maximum possible time.

49. Plaintiff did as she was told and got into a plank position, and this was the last memory she had before she passed out.

50. After Plaintiff lost consciousness, Defendants consciously failed or refused to immediately call Dispatch or 911.

51. Defendants ordered the rest of the recruits to cross the street and stand on the adjacent sidewalk in the shade, leaving Plaintiff lying on the dirt pavement unconscious under the hot sun.

52. Defendants told three of the recruits to go back over to Plaintiff and render aid because they were ex-military.

53. Based on their knowledge, training, and experience as veteran police officers, first responders, and recruit trainers, Defendants, and each of them, knew or reasonably should have known how to render first aid to an injured recruit.



54. For about five to ten minutes the recruits tried to get her to regain her consciousness by pouring water on her neck, and she did not respond. The three recruits later stated that Plaintiff was opening her eyes but was completely unresponsive to commands.

55. Defendants consciously failed and/or refused to go back over to check on Plaintiff and at least check her vitals, as any good training officer knows how.

56. Instead, Defendants elected to remain standing in the cool, shaded area under a tree.

57. One of her classmates, Taylor Lee, later stated that when Plaintiff was doing the “sun gods” he noticed something was wrong with her, seeing that her lips had turned bright blue, and he was worried about her.

58. If Lee saw her bright blue lips, Defendants, and each of them, surely would have seen them, too.

59. Her bright blue lips should have been a red flag to Defendants.

60. Based on their training and experience, Defendants, and each of them, had knowledge that Plaintiff’s bright blue lips was a sign of shock, heat exhaustion, or heat stroke.

61. Based on their training and experience, Defendants, and each of them, had knowledge that the early symptoms of a heat emergency (heat exhaustion or heat stroke) include profuse sweating, fatigue, thirst, and muscle cramps. Bluish lips are a sign of shock. Symptoms of heatstroke include fever, irrational behavior, confusion, dry, hot and red skin, rapid shallow breathing and pulse, seizures, and unconsciousness.

62. Based on their training and experience, Defendants, and each of them, had knowledge that if the problems are not detected and addressed promptly, heat cramps (caused by loss of salt from heavy sweating) can lead to heat exhaustion (caused by dehydration), which can rapidly lead to heatstroke, which is the most serious because it can cause shock, brain damage,

organ failure, and even death.

63. Despite their knowledge, Defendants, and each of them, consciously disregarded the symptoms Plaintiff was exhibiting of heat exhaustion or heatstroke, and consciously and continuously pressured her to work harder and run faster, because it was “Beat Down Friday”.

64. Based on their training and experience, Defendants, and each of them, should have had Plaintiff moved out of the hot sun into a shaded area, but they consciously failed and/or refused to do so.

65. Even if Plaintiff could not be moved for whatever reason, Defendants, and each of them, should have a cover erected to shade Plaintiff from the hot sun so that she could start cooling down, but they consciously failed and/or refused to do so.

66. It took around five minutes before Lt. Pallone-De La Torre called dispatch for an ambulance, but he failed to tell dispatch it was an emergency and that an ambulance should be sent immediately.

67. One of the dispatchers later stated she was helping work in another division when she heard the call for an ambulance and remarked that it did not seem like a big deal or an emergency when the call came in.

68. While waiting for the ambulance, one of the recruits, Luna Guarriello asked Wada, “are you going to do anything?” to which he dismissed her question by saying “I’m not a medic.”

69. As Plaintiff was lying unconscious in the hot sun, still waiting for medical attention, Perreira arrived in his police subsidized vehicle. Instead of putting Plaintiff in the back seat of his car and rushing her to the hospital which was just up the street a half mile away, he stopped, parked his car, and got out and stood across the street in the shade with the rest of the training officers and recruits. He made no attempt to render aid at all.

70. Around 10 minutes after the call, the ambulance arrived with its lights off.
71. Plaintiff was then rushed to the hospital where they determined her body temperature was 107.4°F which could have cause liver and kidney failure resulting in dialysis and liver transplant.
72. Defendants, and each of them, consciously failed to provide Plaintiff's name and office to the EMTs.
73. Plaintiff arrived at the Maui Memorial Hospital as a "Jane Doe" and none of the Defendants accompanied her in the ambulance or went gone to the hospital check on her wellbeing.
74. Defendants, and each of them, consciously failed to notify Plaintiff's emergency contacts of her medical emergency or that she was at the hospital.
75. Her fiancé found out about one to two hours later from Guarriello who had to message a friend of Plaintiff's through social media in order to get her fiancé's phone number.
76. When her fiancé arrived at the hospital, they spoke to a nurse stating "we're here for my sister/girlfriend Alexa Jacobs", and the nurse responded she didn't know who they were talking about and asked more questions.
77. He informed the nurse that Plaintiff was a police recruit who had gone down in training.
78. The nurse then responded that Plaintiff came in as a "Jane Doe".
79. It wasn't until 30 to 45 minutes after her fiancé arrived that Cabral showed up at the hospital. He told Plaintiff's fiancé how strong Plaintiff was and how unfortunate it was that she was in this position.

80. After the Incident, Defendants downplayed the incident; minimized her injury; and made it seem like what happened was not as big of a deal, stating repeatedly to her parents that it was just a “light jog”.

81. Plaintiff’s father called MPD numerous times to figure out what happened and what was going on with Plaintiff, but the MPD was dismissive and told him that Plaintiff would be fine.

82. Plaintiff’s parents did not know how dire Plaintiff’s condition was until her doctors at Maui Memorial Medical Center called them to come to the hospital right away because the chances of their daughter surviving were not good.

#### Defendants Consciously Exposed Plaintiff to Unsafe Conditions

83. Plaintiff suffered a heatstroke on the day of the Incident and almost died.

84. Heatstroke is the most serious heat-related illness. It occurs when the body can’t cool itself through sweating. Heatstroke occurs when the body temperature rises to 106 degrees or higher which can happen very quickly within 10 to 15 minutes.

85. Based on their training and knowledge, Defendants, and each of them, knew or reasonably should have known that running the recruits in hot and humid weather can pose a serious risk of injury including dehydration and heatstroke.

86. Based on their training and knowledge, Defendants, and each of them, knew or reasonably should have known that it is also possible to experience the sudden onset of heat stroke without any preceding heat exhaustion.

87. Based on their training and knowledge, Defendants, and each of them, knew or reasonably should have known that subjecting Plaintiff to perform an extra cross country run, to perform “sun gods” and to perform planks during the hottest time of the day after she was exhausted and dehydrated from performing the PT Assessment just the hour before could expose

her to heat exhaustion or heatstroke.

88. Based on their training and knowledge, Defendants, and each of them, knew or reasonably should have known that heatstroke can set in quickly over the course of 10-15 minutes, and that it is important to monitor their recruits for signs of heat exhaustion or heat stroke during their cross country run, especially because it was 12 noon, the hottest time of the day.

89. Based on their training and knowledge, Defendants, and each of them, knew or reasonably should have known that the symptoms of heatstroke are very similar to those of heat exhaustion, but rapidly progress to worsening symptoms, including, but not limited to, disorientation, rapid pulse, cessation of sweating and hot/dry skin, body temperature that may reach 104 degrees or higher, loss of consciousness, and coma.

90. Based on their training and knowledge, Defendants, and each of them, knew or reasonably should have known that it is critical to administer immediate care to a person who is ill or injured during an emergency to help save a life, and that failure to administer immediate first aid care may result in irreparable injury.

Defendants' Misconduct Was "Outrageous"

91. Defendants' tortious acts and omissions constitute "outrageous" conduct for the following reasons:

- a. Plaintiff was hospitalized with heatstroke due to hazing by the Defendants on "Beat Down Friday", which nearly kill her;
- b. Defendants consciously disregarded obvious signs that Plaintiff was already fatigued and dehydrated from completing the PT Assessment an hour prior;
- c. Defendants disregarded Plaintiff's compromised condition and proceeded to subject her to extreme and unsafe by (1) ordering her to do an extra cross country run at 12

noon, the hottest time of the day; (2) ordering her to do “sun gods” until her lips turned bright blue and not caring that she appeared to be distressed; (3) ordering her to resume running knowing she was obviously fatigued and showed clear signs of heat exhaustion or heatstroke; and (4) ordering her to do planks until she completely passed out and went into a coma;

d. Defendants consciously left Plaintiff lying unconscious on the dirt pavement under the scorching sun while they and the other nine recruits took refuge in the shade across the street;

e. Defendants could and should have Plaintiff moved out of the hot sun into a shaded area consciously left Plaintiff lying unconscious on the dirt pavement under the scorching sun while they and the other nine recruits took refuge in the shade across the street, but they consciously failed and/or refused to do so; and

f. Even if Plaintiff could not be moved for whatever reason, Defendants could and should have had a cover erected to shade Plaintiff from the hot sun so that she could start cooling down, but they consciously failed and/or refused to do so.

92. As a direct and proximate result of Defendants’ tortious misconduct, Plaintiff has sustained, and will continue to sustain, serious physical injuries, severe permanent partial disability, extreme pain and suffering, extreme disappointment and embarrassment, severe emotional distress and mental anguish, loss of quality of life, loss of enjoyment of life, loss of income, loss of future earning capacity, and other related damages.

COUNT I  
*Failure to Render Aid*

93. Plaintiff realleges and incorporates herein the allegations contained in preceding paragraphs as though fully alleged herein.

94. Hawaii Revised Statutes (“HRS”) 386-8 allows an injured employee to sue a co-employee supervisor for torts based on willful and wanton misconduct, or intentional or reckless misconduct. Willful and wanton conduct of a co-employee may give rise to punitive damages. *Iddings v. Mee-Lee*, 82 Hawai‘i 1, 6-9, 919 P.2d 263, 268-271 (1996) (actual intent to injure is not required under the willful and wanton misconduct exception, and genuine material factual issues exist as to whether defendant/doctor’s consciously allowing plaintiff/nurse to work in an unsafe working environment constitutes willful and wanton, or reckless misconduct under HRS § 386-8).

95. Plaintiff is and was at all relevant times herein an injured employee.

96. Defendants, and each of them, were Plaintiff’s supervisors, training officers, and co-employees.

97. Defendants, and each of them, engaged in willful and wanton misconduct and/or reckless misconduct that caused unsafe training conditions during the physical fitness assessment.

98. Defendants, and each of them, willful and wanton misconduct and/or reckless misconduct was a substantial factor in causing Plaintiff to suffer serious injuries and substantial damages from being exposed to the dangerous condition.

99. As a direct and proximate result of Defendants’ wrongful conduct, Plaintiff is entitled to recover special, general, and punitive or exemplary damages, together with reasonable attorneys’ fees in such amounts as shall be shown at a trial or hearing hereof.

## COUNT II

### *Intentional Infliction of Emotional Distress*

100. Plaintiff realleges and incorporates herein the allegations contained in preceding paragraphs as though fully alleged herein.

101. Defendants' wrongful conduct was outrageous, beyond bounds of decency, willful and wanton, and/or malicious.

102. Defendants' wrongful conduct caused extreme emotional distress to Plaintiff.

103. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff is entitled to recover special, general, and punitive or exemplary damages, together with reasonable attorneys' fees in such amounts as shall be shown at a trial or hearing hereof.

WHEREFORE, Plaintiff prays for Judgment in her favor and against Defendants, jointly and severally, as follows:

- A. Special damages in an amount to be determined at a trial or hearing hereof;
- B. General damages in an amount to be determined at a trial or hearing hereof;
- C. Punitive or exemplary damages in an amount to be determined at a trial or hearing hereof;
- D. Reasonable attorneys' fees and costs;
- E. Pre-judgment interest and post-judgment interest; and
- F. Any and all other relief as may be deemed just and equitable by the Court.

DATED: Honolulu, Hawaii, July 6, 2023.

/s/ Peter C. Hsieh  
MICHAEL JAY GREEN  
PETER C. HSIEH

Attorneys for Plaintiff  
ALEXA JACOBS



IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

STATE OF HAWAII

ALEXA JACOBS,

Plaintiff,

vs.

CLIFTON PERREIRA, JEREMY PALLONE-  
DE LA TORRE, ANDREW CABRAL,  
NOLAN WADA, JOHN DOES 1-10, JANE  
DOES 1-10, DOE CORPORATIONS 1-10,  
DOE GOVERNMENTAL ENTITIES 1-10,

Defendants.

CIVIL NO. \_\_\_\_\_

DEMAND FOR JURY TRIAL

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues triable of right by jury in this case,  
pursuant to Rule 38, Hawaii Rules of Civil Procedure.

DATED: Honolulu, Hawaii, July 6, 2023.

/s/ Peter C. Hsieh  
MICHAEL JAY GREEN  
PETER C. HSIEH

Attorneys for Plaintiff  
ALEXA JACOBS