constitutional rights to free speech and protection against unreasonable search of Plaintiffs' bodies as well as state tort claims for civil conspiracy.

2. Defendants committed these unlawful violations of Plaintiff's constitutional and state rights under color of state law in bad faith and with malicious purpose in reckless, wanton, and willful disregard of Plaintiff's human, safety, and property rights.

# I. JURISDICTION AND VENUE

**3.** Plaintiffs bring this action pursuant 42 U.S.C. § 1983 for violations of civil rights under the First, Fourth, and Fourteenth Amendments to the United States Constitution.

4. This Court has subject-matter jurisdiction over this matter pursuant to 28 U.S.C.
§ 1331 (federal question) and 28 U.S.C. § 1343(a)(3) (civil rights); 28 U.S.C. § 1367 provides
supplemental jurisdiction over the state law tort claims that arose from the same common nuclei

#### III. FACTUAL ALLEGATIONS

1. Valencia State College is a State of Florida educational institute located solely within the Middle District of Florida.

2. Valencia State College has its own rules of governance, policies, and procedures. Each state college in Florida operates independently from other state colleges, and each state college is governed by its own Board of Trustees. Doe I & Doe II sue Valencia State College's Board of Trustees in its official capacity, for the actions of its co-defendants, who are Valencia employees. See *Monell v. Dept. of Social Services of City of New York*, 436 U.S. 658 (1978), *inter alia.* 

3. All defendants are State actors, and as such, the United States Constitution governs their individual and collective actions when acting on Valencia's behalf.

4. Valencia's formal and informal policies, written or unwritten, allowed, encouraged or enabled Defendants Shaheen, Ball, and Bugnacki to violate Plaintiffs' individual constitutional rights and conspire to commit these constitutional violations. Furthermore, Valencia has ratified its co-defendants' behavior in subsequent administrative hearings.

5.

sonography students, and Valencia acted with reckless indifference to Doe I & Doe II's First and Fourth Amendment rights under the United States Constitution.

7. Plaintiffs were formerly enrolled in Valencia State College's Medical Diagnostic Sonography Program in 2013. The Medical Diagnostic Sonography Program is highly competitive and Valencia State College admits only a handful of students each year; therefore, Plaintiffs' expended tremendous energies to get into the program and maintain their grade point averages.

8. Plaintiffs also had to review the Medical Diagnostic Sonography Program's guidelines and requirements before acceptance into Valencia's program. After acceptance into the program, Valencia State College required Plaintiffs to attend an orientation that further described the program and set Plaintiffs' expectations about how the program operated. During that orientation, Valencia State College had a second year student, Jennifer Astor (nicknamed the "TransVag Queen") explained the Medical Diagnostic Sonography Program's faculty believed that students should undergo invasive transvaginal ultrasound procedures in order to become better sonography technicians. Valencia positioned these transvaginal probes as voluntary, but its actual policy and practice was that they were not.

9. In fact, Valencia's established and widespread policy was to browbeat students who did not consent to those invasive probes and threaten Plaintiffs' academic standing as

**10.** A transvaginal ultrasound probe is a procedure a technician uses an ultrasound transducer ("probe") to detect problems with fertility (among others). See

program had a male student who would also probe the female Plaintiffs on a regular basis. Defendant Ball told Plaintiffs they could find another school if they did not wish to be probed. This is despite the fact that Defendant Shaheen had described the probes as voluntary and not a program requirement during Orientation in April 2013.<sup>2</sup>

14. In March 2014, Plaintiffs and their Program cohorts began practicing ultrasound vaginal probes upon one another. Plaintiffs endured these invasive probes nearly every week, yet Valencia State College's Medical Sonography Program had and still has anatomically correct simulators designed specifically for students to practice sonography exams upon them.<sup>3</sup>

**15.** Additionally, Plaintiffs and all other students had clinical practice at Central Florida hospitals where Plaintiffs practiced upon actual patients in a medical setting. There was no State rational basis or need for Valencia State College to force Plaintiffs to endure these invasive probes of their reproductive organs.<sup>4</sup>

16. Plaintiffs endured these invasive probes without a modicum of privacy.Plaintiffs would disrobe in a restroom, drape themselves in towels, and traverse the

2

Sonography classroom in full view of instructors and other students to reach one of the four Sonography Stations. See Plaintiffs' Incorporated Exhibit Figure 2 (below).

Figure 2

17. A student would place a condom over the probe and then apply generous amounts of lubrication to the probe. In some cases, the student would have to sexually "stimulate" Plaintiffs in order to facilitate inserting the probe into Plaintiffs' vaginas.

**18.** In March 2014, Plaintiff Doe II complained to Defendant Shaheen about the unnecessary vaginal probes. Defendant Shaheen stated Plaintiffs would be academically and professionally penalized for not submitting to the forced vaginal probes.

19. Throughout Plaintiffs' tenure in the program, De

other instructors conspired to have students petition Valencia State College to reinstate its policy of coerced vaginal probing female students. Plaintiffs believe Defendants may "reboot" their policies of coerced vaginal probing of students after the furor of this case dies down unless this Court enters and order forbidding the practice of forcing unwilling students to undergo State-mandated reproductive organ probings.<sup>5</sup>

23. These deprivations under color of state law are actionable under and may be redressed by 42 U.S.C. §1983. Plaintiffs will seek their attorneys' fees and costs under 42 U.S.C. §1988 if and when they prevail.

## IV. COUNTS

### COUNT I: § 1983 CLAIM OF RETAILIATION FOR EXERCISE OF FIRST AMENDMENT PROTECTED FREE SPEECH ACTIVITY AGAINST DEFENDANTS BALL, SHAHEEN & BUGNACKI

**24.** Plaintiffs re-allege and incorporates by reference all of the preceding paragraphs in this complaint.

25. Defendants Ball, Shaheen & Bugnacki personally, maliciously, and under color of state law deprived Plaintiffs of Plaintiffs' rights under the First Amendment to the United States Constitution, which are secured through the Fourteenth Amendment, by maliciously retaliating against Plaintiffs for Plaintiffs' exercise of the constitutional right of free speech to protest government activity of great public interest of which Plaintiffs disapproved and protested peacefully without interferring with the State's operations.

<sup>&</sup>lt;sup>5</sup> Plaintiffs do not oppose Defendants' probing willing students or hired models so long as there are proper constitutional safeguards in place **and** ensure Defendants obtain full and proper consent. Forced "consent," though, particularly in a school setting, is not consensual. Plaintiffs believe injunctive relief is the only safeguard against further forced vaginal probes.

26. In depriving Plaintiffs of these rights, Defendants committed these unlawful violations under color of state law in bad faith and with malicious purpose in reckless, wanton, and willful disregard of Plaintiffs' human, safety, and property rights.

27. This deprivation under color of state law is actionable under and may be

33. Defendants Ball, Shaheen & Bugnacki conspired together to commit illegal searches of Plaintiffs' bodies in violation of the United States Constitution's Fourth Amendment as applied to the States via the Fourteenth Amendment. These coerced vaginal probes by State employees were done without a warrant and with reckless indifferences to Plaintiffs' rights.

**34.** Defendants conspired to retaliate against Plaintiffs for Plaintiffs' clearly established First Amendment

**39.** Valencia's official and unofficial policies and customs encouraged, caused, allowed, and/or enabled Defendants Ball, Shaheen & Bugnacki to violate Plaintiffs' constitutional and state rights without fear of discipline for those violations. See *Monell v*. *Department of Soc. Svcs.*, 436 U.S. 658 (1978).

40.

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A.

#### JS 44 (Rev. 12/12)

#### **CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

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