

1 Christine Saunders Haskett (SBN 188053)
Christine Gealy England (SBN 261501)
2 COVINGTON & BURLING LLP
One Front Street
3 San Francisco, CA 94111
Telephone: (415) 591-6000
4 Facsimile: (415) 591-6091
Email: chaskett@cov.com; cengland@cov.com

5
6 Michael Temple Risher (SBN 191627)
Elizabeth O. Gill (SBN 218311)
American Civil Liberties Union
7 Foundation of Northern California, Inc.
39 Drumm Street, San Francisco, CA 94111
8 Telephone: (415) 621-2493
Facsimile: (415) 255-8437
9 Email: mrisher@aclunc.org; egill@aclunc.org

10 Attorneys for Plaintiffs
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12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 FOR THE COUNTY OF ALAMEDA

14
15 SUSAN HARMAN, NANCY MANCIAS, and
JANE DOE,

16 Plaintiffs,

17 v.

18 GREGORY J. AHERN, Alameda County Sheriff,

19 Defendant.
20

Civil Case No.:

**VERIFIED PETITION FOR WRIT OF
MANDATE AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF UNDER CAL. CONST. ART. I
§§ 1, 13, U.S. CONST. AMD. 4, AND
15 C.C.R. § 1214**

1 **I. INTRODUCTION**

2 1. This action challenges the Alameda County Sheriff’s policy of requiring women arrested
3 and booked into Alameda County jails to submit to a pregnancy test. In at least one jail, this mandatory
4 testing occurs entirely outside the context of any other health screening. And it does not appear to be
5 related to providing appropriate health care to women in the jails: it applies to women who will stay at
6 the jail for only a few hours, and it applies to women who cannot be pregnant. Women are not permitted
7 to refuse the testing.

8 2. As a means to providing appropriate health care to female inmates, jails should offer
9 women the option of taking a pregnancy test as a voluntary component of the more general health care
10 screening the jails conduct for all inmates. By isolating the pregnancy test and making it mandatory,
11 however, the sheriff’s policy publicly intrudes into one of the most intimate and private areas of a
12 person’s life – reproductive decisionmaking. As a result, female arrestees in Alameda County suffer
13 humiliation and even greater distress, when, for example, they have to take the pregnancy test despite
14 knowing that are not able to become pregnant due to age or infertility; they did not know they were
15 pregnant and have to receive that information from someone other than a trusted healthcare provider; or
16 they were trying to get pregnant and have to receive the news of negative test results from someone
17 other than a trusted healthcare provider.

18 3. The Alameda County Sheriff’s policy of requiring female arrestees to submit to a
19 mandatory pregnancy test is a clear violation of the California Constitution, the U.S. Constitution, and
20 state statutory law. The test violates arrestees’ right to privacy under Article I § 1 of the California
21 Constitution; it constitutes an unlawful search and seizure under the state and federal constitutions; and
22 it violates Title 15 § 1214 of the California Code of Regulations, which requires jails to allow mentally
23 competent inmates to refuse non-emergency medical care and mandates that all examinations,
24 treatments and procedures conducted in jail accord with the same informed-consent standards that apply
25 outside of jail.

26 4. Plaintiffs seek mandamus, declaratory, and injunctive relief to ensure that female
27 arrestees may refuse to submit to this pregnancy testing.
28

1 **II. JURISDICTION AND VENUE**

2 5. This Court has jurisdiction under article VI, section 10, of the California Constitution and
3 California Code of Civil Procedure § 410.10.

4 6. Venue in this Court is proper because this is an action against the Alameda County
5 Sheriff in his official capacity for acts he performed as part of his public duties that caused, and will
6 continue to cause, legal injuries and deprivation of rights to persons, including Plaintiffs, in Alameda
7 County. *See id.* §§ 393(b), 395(a); Civ. Code § 52.1(c).

8 **III. PARTIES**

9 **Plaintiffs**

10 7. In July 2010, at the age of 69, Plaintiff Susan Harman was required to submit to a
11 pregnancy test at Alameda County’s Glenn E. Dyer Detention Facility after she was arrested at a
12 political demonstration. Ms. Harman is assessed and pays annual property taxes on real property that
13 she owns in Alameda County. Ms. Harman believes that pregnancy testing of each and every female
14 arrestee is an abuse of government power and a waste of her tax dollars. She brings this suit as a citizen
15 and as an Alameda County taxpayer.

16 8. In August 2012, Plaintiff Nancy Mancias was required to submit to a pregnancy test at
17 Alameda County’s Glenn E. Dyer Detention Facility after she was arrested at a political demonstration.
18 Ms. Mancias continues to participate in political demonstrations and is sometimes arrested at them. She
19 brings this suit as a citizen and so that she will not be forced to undergo this intrusive testing during
20 future arrests in Alameda County.

21 9. In April 2014, Plaintiff Jane Doe was required to submit to a pregnancy test at Alameda
22 County’s Santa Rita Jail after she was arrested for allegedly delaying or obstructing a peace officer
23 following a traffic stop. Ms. Doe is assessed and pays annual property taxes on real property that she
24 owns in Alameda County. She brings this suit as a taxpayer and as a citizen of Alameda County.

25 **Defendant**

26 10. Defendant Gregory J. Ahern is the Alameda County Sheriff. Defendant Ahern has
27 ultimate authority over the Alameda County jails, including the Glenn E. Dyer Detention Facility and
28

1 the Santa Rita Jail, and is responsible for protecting the constitutional and statutory rights of prisoners
2 under his custody. He is named in his official capacity only.

3 **IV. STATEMENT OF FACTS**

4 11. Plaintiff Susan Harman was arrested in Oakland in July 2010, during a protest relating to
5 the shooting of Oscar Grant. Immediately after she was arrested, Ms. Harman was taken to the
6 emergency room for examination and treatment for injuries she had sustained when police officers
7 struck her on the head. The hospital did not conduct a pregnancy test. After she was released from the
8 hospital, Ms. Harman was taken to the Glenn E. Dyer Detention Facility in downtown Oakland. Soon
9 after she arrived, jail personnel required her to take a pregnancy test. The officer took her, along with
10 two other women, to a bathroom and demanded that she urinate in a cup. Ms. Harman told the officer
11 that she was 69 years old and could not possibly be pregnant, but the officer required her to take the test
12 anyway.

13 12. Ms. Harman was not provided with any additional medical screening at the jail.
14 Although Ms. Harman is diabetic, no jail personnel responded to her concern that she needed insulin.
15 After being held in a crowded holding cell all night, Ms. Harman was released from custody the next
16 morning. Ms. Harman was never told the results of her pregnancy test. She was never charged with any
17 crime.

18 13. Ms. Harman felt generally humiliated and demeaned by the forced pregnancy test. Given
19 her age, the pregnancy test clearly had nothing to do with providing her with appropriate health care.
20 Moreover, the fact that the jail required her to take the pregnancy test yet ignored her actual medical
21 needs around insulin, made her feel as if the only purpose of the pregnancy test was to embarrass her
22 and to invade her privacy.

23 14. Plaintiff Nancy Mancias was arrested during a political demonstration in Oakland in
24 August 2012 and taken the Glenn E. Dyer Detention Facility. Soon after she arrived at the jail, an
25 officer ordered Ms. Mancias to take a pregnancy test. Ms. Mancias responded: "Isn't that a violation of
26 my civil liberties?" The officer told her that if she refused to take the pregnancy test she would be sent
27 to Santa Rita Jail, some 30 miles from where she had been arrested. In response to this coercion, Ms.
28 Mancias took the test. She stepped behind a low partition that reached only to her waist level and

1 urinated into the sample cup, while the officer turned her back. She then handed her sample to the
2 officer.

3 15. Ms. Mancias did not see any doctors or nurses and did not receive any additional medical
4 screening. After some eight hours in custody, Ms. Mancias was released. Ms. Mancias was never told
5 the results of her pregnancy test. She was never charged with any crime.

6 16. Ms. Mancias felt humiliated and deeply distressed by the forced pregnancy testing, which
7 she experienced as a gross violation of her privacy. Ms. Mancias had tried to become pregnant in the
8 past, but had been unable to do so. Because of this, she knew that she was not pregnant and found the
9 compulsory pregnancy testing particularly inappropriate and invasive into an area that she considers
10 private. Ms. Mancias has been arrested during political demonstrations in other jurisdictions but has
11 never been required to take a pregnancy test.

12 17. Plaintiff Jane Doe was arrested in April 2014 for allegedly obstructing, resisting, or
13 delaying a peace officer during a traffic stop. After her arrest she was taken to Santa Rita Jail and
14 photographed and fingerprinted. After some two hours, Ms. Doe was given a medical screening, during
15 which she believes she was asked whether she was pregnant. Ms. Doe is married with two young
16 children and knew that she was not pregnant and believes that she informed staff that she was not
17 pregnant. Nevertheless, staff directed her to submit to a pregnancy test. Nobody indicated in any way
18 to Ms. Doe that she could refuse. Ms. Doe later posted bail and was released after approximately 16
19 hours in custody.

20 18. Ms. Doe provided a urine sample for the pregnancy test only because she believed that
21 she was required to do so. She had never been arrested before and did not want to do anything that
22 would prolong her stay in jail or cause her additional legal problems. She believes that the testing
23 infringed on her privacy and that it should have been her personal decision whether to take the test.
24 More generally, she believes that other women in this position should have the right to refuse to submit
25 to a pregnancy test.

26 19. Ms. Doe brings this suit under a pseudonym to avoid additional invasions of her privacy.
27
28

43. Defendant is illegally expending public funds by requiring female arrestees to submit to pregnancy tests in violation of the United States and California constitutions, as well as the California Code of Regulations.

SIXTH CAUSE OF ACTION
(Violation of Bane Act, Civ. Code § 52.1)
(All Plaintiffs against Defendant Ahern)

44. Plaintiffs incorporate by reference the allegations of the above paragraphs as though fully set forth herein.

45. The Bane Act allows a person whose rights have been interfered with by means of threats, intimidation, or coercion to sue for injunctive and other equitable relief. Civ. Code § 52.1(b).

46. By forcing Plaintiffs to submit to a pregnancy test, Defendant has interfered with their rights, as set forth in the United States and California constitutions as well as the California Code of Regulations by means of threats, intimidation, and coercion.

PRAYER FOR RELIEF

Wherefore, Plaintiffs respectfully request that the Court:

A. Issue a peremptory writ of mandate directing Defendant to: (1) stop requiring female arrestees in Alameda County to take a pregnancy test unless they have given informed consent to this testing; (2) provide every female arrestee with a meaningful opportunity to refuse pregnancy testing; and (3) take all other necessary steps to insure and protect the privacy rights of female arrestees with respect to pregnancy testing, including directing that all intake procedures be revised to reflect this Court's ruling.

B. Issue a declaration that Defendant's actions in requiring mandatory pregnancy testing of female arrestees violate: (1) Article I § 1 of the California Constitution; (2) the Fourth Amendment of the United States Constitution; (3) Article I § 13 of the California Constitution, and (4) Title 15 § 1214 of the California Code of Regulations.

C. Grant injunctive relief directing that Defendant stop requiring female arrestees to submit to a mandatory pregnancy test.

D. Order Defendant to pay Plaintiffs' attorneys' fees and costs under 42 U.S.C. § 1988(b), Civil Code § 52.1(h), Code Civ. Proc § 1021.5, and any other applicable statutes.

1 E. Grant Plaintiffs such further relief as the Court deems just and proper.

2
3 June 2, 2014

COVINGTON & BURLING LLP

4
5 By: 
6 Christine Saunders Haskett
Attorneys for Plaintiffs

7
8 June 2, 2014

ACLU Foundation of Northern California, Inc.

9
10 By: _____
11 Michael Temple Risher
Attorneys for Plaintiffs

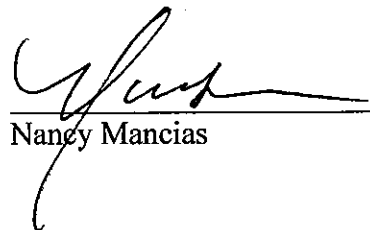
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VERIFICATION

I, Nancy Mancias, am a plaintiff in this matter of *Harman, et al. v. Ahern*. I have read this Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief in this matter. I am informed, and do believe, that the matters herein are true. On that ground, I allege that the matters stated herein are true. In addition, the facts within paragraphs 8 and 14-16 are within my own personal knowledge and I know them to be true.

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

DATED: 5/30/2014



Nancy Mancias

EXHIBIT A

EXHIBIT B

EXHIBIT C