

Attachment A

I. Background

1. I joined the Army on . My rank is currently . In my position as a , I help to . It is my job to .

2. I attended basic training in . Upon graduation, I went to . My first operational assignment was with . My assignments have included rotations to . I came to my current position at Joint Base Lewis-McChord in Washington in .

II. Factual Allegations

3. For years, I have suffered from back pain caused by a degenerative disc. There is no known specific event which caused my back injury, rather it is caused by gradual wear on my discs. I first began seeking treatment for my back in while stationed on . This treatment was minimal. It was not until I was stationed at in that I received focused attention by medical personnel for my back pain.

[REDACTED]

4. [REDACTED]

[REDACTED]

5. As a result of my ongoing back pain, I was referred to the Interdisciplinary Pain Management Center (IPMC) at Madigan Army Medical Center (“Madigan”) in Tacoma, Washington. The IPMC treats patients suffering with pain on an outpatient basis using various treatments, including medication management, pain interventions, health psychology, physical therapy, occupational therapy, chiropractic care, acupuncture, yoga therapy, medical massage and mindfulness-based stress reduction. Because Madigan is an Army medical center, the agencies responsible for overseeing it are the United States Department of the Army and the Department of Defense.

6. In January 2022, I had my first appointment at the IPMC with Dr. Michael Stockin. Dr. Stockin is an anesthesiologist and pain management specialist based in Tacoma, Washington. My initial appointment with Dr. Stockin was part of the pain management intake process.

7. When I arrived for my initial appointment with Dr. Stockin in January 2022, I was taken to a triage room where a nurse took my vitals. The nurse then led me to an exam room and left me alone. Soon after, Dr. Stockin entered the exam room. There was no chaperone present for the examination, nor was one offered. Dr. Stockin began the examination by asking me to hold out my hands while he attempted to push them down.

8. Dr. Stockin then proceeded to the sensory nerve test. This test is designed to check my nerve reactions and pain levels. I have previously had sensory nerve tests done, but never in the manner that Dr. Stockin performed it. In my previous sensory nerve tests, the doctor touched my arms to see if I could feel it. In contrast, Dr. Stockin directed me to “drop trou,” indicating that I should remove my pants. I hesitated but complied and left my boxers on; however, Dr. Stockin insisted that I remove my boxers as well. I felt very uncomfortable as this had never happened in prior exams with other doctors for management of my back pain. Dr. Stockin then started touching my calves just above my boots and pooled pants with his bare hands and working his way up my legs. In other sensory exams I have seen, it is customary to touch the patient with a device or tool, not bare hands. Dr. Stockin worked his way up my legs to my penis. Dr. Stockin touched my penis, going so far as to retract the foreskin. He then allowed me to put my pants back on. It struck me as very odd that Dr. Stockin purported to do such a comprehensive exam that he needed to thoroughly touch my penis; however, he never asked me to remove my boots. Accordingly, Dr. Stockin did not examine my feet or ankles as part of the sensory exam.

9. The examination felt wrong to me, and I felt violated. It did not seem to me that Dr. Stockin had a valid medical reason for touching my penis with his bare hands. I felt so ashamed that I was reluctant to tell even my wife for several days.

10. In April 2022, I had another appointment scheduled with Dr. Stockin for me to receive an injection in my lower back. At this appointment, the nurse remained in the room for the

entire visit. When Dr. Stockin injected my lower back, he rolled down my pants, exposing my buttocks more than was necessary. After the appointment, when I was standing in the lobby, Dr. Stockin came out to speak to me. As he spoke to me, he stood so close to me that it made me uncomfortable.

11. My next appointment with Dr. Stockin to follow-up and potentially receive a second lower back injection was scheduled for June 2022. However, prior to the appointment, the clinic called me to cancel explaining that Dr. Stockin was, “not currently seeing patients.” They did not provide any additional explanation.

12. Throughout 2022, I felt very traumatized by my initial examination by Dr. Stockin. I kept replaying the way he violated me by touching my penis. Unable to put it behind me, in November 2022, I raised the subject during an appointment with my primary care doctor. My primary care doctor had practiced previously as a pain management specialist; therefore, he was very knowledgeable about how to properly perform a sensory nerve examination. My primary care doctor seemed alarmed when I explained what had happened with Dr. Stockin. He explained that he did not see a valid medical reason for Dr. Stockin to touch my groin area or my penis as part of the lower back pain evaluation. My primary care doctor further stated that if Dr. Stockin had a medical need to touch my penis, he should have first explained the procedure and offered to have a chaperone in the room. My primary care doctor strongly encouraged me to report Dr. Stockin’s conduct to a patient advocate.

13. Following my primary care doctor’s advice, in January 2023, I went to the patient advocate’s office at Madigan and reported my experience with and concerns about Dr. Stockin. Shortly after leaving the office, I received a call from a different advocate in the same office stating that my primary care doctor had been concerned enough that he reached out to them directly. Within a day or two, I received a call from the Army Criminal Investigation Division (CID). [REDACTED]

[REDACTED] more than one hundred victims had reported being sexually abused by Dr. Stockin. There are likely many more victims who never reported Dr. Stockin’s abusive conduct. I then realized that Dr. Stockin was removed from seeing patients because of the numerous reports of sexual abuse filed against him.

14. I later learned that the Army received reports of Dr. Stockin sexually assaulting patients in February 2022. See <https://www.armytimes.com/news/your-army/2023/09/01/army-charges-military-doctor-over-alleged-sexual-abuse/>. However, Dr. Stockin was allowed to treat me in April 2022.

15. I have been very traumatized by what Dr. Stockin did to me. I have sought treatment from a mental health therapist. She diagnosed me with Post Traumatic Stress Disorder (PTSD) from the trauma of Dr. Stockin’s abuse.

16. I subsequently resumed my treatments at the IPMC with Dr. Stockin’s replacement. At those appointments, I was always offered a chaperone during the examinations. At no point

during those follow up examinations did the doctor believe it was medically necessary to touch my penis.

III. The Department of the Army's and the Department of Defense's Liability

17. What happened to me was a result of the United States Department of the Army's and Department of Defense's (collectively "the Army") negligence and was entirely preventable. Due to the Army's negligence, I was severely and irreparably harmed. Accordingly, the Army is liable under the FTCA.

18. The Army owed a duty of care to patients at Madigan to take reasonable efforts to ensure their well-being while at the medical facility. However, the Army breached that duty by negligently hiring and negligently supervising Dr. Stockin. The Army's negligence directly caused me to be sexually assaulted by Dr. Stockin.

19. Had the Army better screened Dr. Stockin when hiring him, or better supervised his patient interaction, Dr. Stockin would not have been in a position to sexually abuse me and other patients. The fact that Dr. Stockin was able to sexually abuse over 100 patients, and potentially many more, is evidence that the Army was negligent in its supervision of Dr. Stockin. Furthermore, the Army negligently allowed Dr. Stockin to continue seeing patients, including me, even after the Army received complaints about Dr. Stockin in February 2022.

20. Furthermore, the Army negligently failed to put in place or enforce policies and procedures to minimize the risk of sexual assault of patients. Dr. Stockin was allowed to examine patients without a chaperone present.

21. The risk that a patient might be sexually assaulted at Madigan was foreseeable. The cases of physicians sexually abusing patients have been on the rise over the past decade. In July 2016, the Atlanta Journal-Constitution newspaper published a report that uncovered thousands of cases of physician sexual abuse spread across every state in the United States. This report was widely publicized in national news journals. See <https://www.cnn.com/2016/07/11/health/doctor-sexual-abuse/index.html>. In addition, stories of physicians being prosecuted for sexually abusing patients are constantly in the news. For example, from 2018-2021, the University of Southern California (USC) settled cases totaling over one billion dollars stemming from a USC gynecologist sexually abusing hundreds of patients under the guise of a purported examination. Thus, the Army knew or should have known that protocols must be in place to minimize the risk of physician sexual assault. However, the Army failed to institute any such protocols at Madigan.

22. As a direct and proximate result of the Army's negligence, I sustained and continue to sustain emotional distress. For instance, as noted above, I have been diagnosed by a mental health professional with PTSD stemming from the sexual assault by Dr. Stockin.

23. Accordingly, I am entitled to be compensated for these injuries, including but not limited to:

- a. past, present, and future emotional pain and suffering;
- b. past, present, and future psychological trauma and impairment;

- c. medical bills and other expenses for past and future treatment related to the Army's acts;
- d. loss of professional opportunity.

24. Given the Army's negligence and the resultant harm I endured, the Army is liable under the FTCA.

25. I can readily establish each element of a FTCA claim. Specifically, (i) Madigan employees are employees of the federal government; (ii) Employees at Madigan who were responsible for the hiring and supervision of doctors and for instituting and enforcing policies and procedures were administering their official duties and thus acting within the scope of their employment when they acted negligently; (iii) I was gravely harmed by the Army's negligence; (iv) that harm was foreseeable and avoidable had the Army taken adequate measures to ensure the safety of its patients at Madigan.

26. The intentional act exception to the FTCA does not apply in this matter because my claims are against the Army, not Dr. Stockin, for negligently hiring supervising and retaining Dr. Stockin and negligently failing to institute adequate policies and procedures to reasonably ensure my safety. Courts in the Ninth Circuit have routinely allowed claimants to pursue FTCA claims against a government agency for causes of action such as negligent hiring and supervision that created the circumstances where an individual employee could commit a criminal act. *See, e.g., Senger v. United States*, 103 F.3d 1437, 1442 (9th Cir. 1996); *Brock v. United States*, 64 F.3d 1421, 1425 (9th Cir. 1995); *Bennett v. United States*, 803 F.2d 1502, 1504 (9th Cir. 1986).

27. In addition, the *Feres* doctrine does not preclude me from pursuing FTCA claims against the Army because Dr. Stockin's sexual assault of me did not arise out of and was not in the course of activity incident to my military service. While being sexually assaulted by Dr. Stockin, I was not engaging in an activity that was related in any relevant way to my military duties. Courts in the Ninth Circuit have held that sexual assault is not related to any military mission and thus does not fall under the *Feres* doctrine. *See Spletstoser v. Hyten* 44 F.4th 938, 957-958 (9th Cir. 2022) ("the tortious act at issue in this case is the intentional tort of sexual assault. It is unimaginable that Plaintiff would have been "under orders" to submit to [the] sexual advances, or that [he] was performing any sort of military mission in conjunction with the alleged assault... Indeed, "private sexual conduct" and "intimate association" are at the essence of an individual's personal life ... A claim based on sexual assault is a far cry from those calling into question basic choices about the discipline, supervision, and control of military personnel . . . one would be hard pressed to conclude that a tortious sexual assault is in any way incident to "a decision requiring military expertise or judgment."").

IV. Conclusion

28. For the foregoing reasons, I have stated a viable FTCA claim against the United States Department of the Army and the United States Department of Defense and am entitled to damages of \$5 Million. Specifically, I have experienced and will continue to experience significant past, present, and future emotional pain and suffering and psychological trauma and impairment. *See, e.g., Baca v. Endless Summer*, Case No. 0:18-CV-60200 (S.D. Fl. 2018) (jury verdict

awarding sexual assault victim, an employee aboard a yacht, \$66 million for pain and suffering, \$70,000 for lost wages, and \$4.2 million for lost future earnings). In addition, I will incur future medical and mental health bills related to the assault.