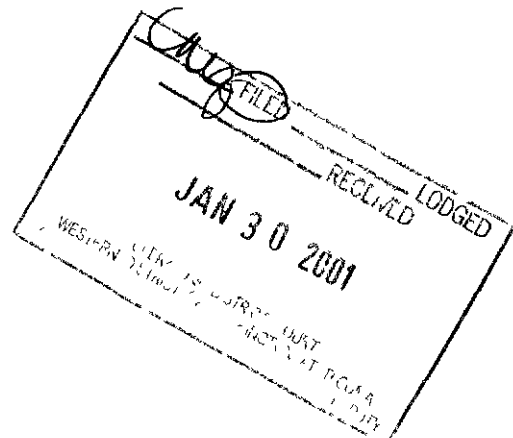




The Honorable ROBERT J BRYAN

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

CHRISTI RUST, et al ,

Plaintiffs,

v

WESTERN STATE HOSPITAL, et al ,

Defendants

NO C00-5749RJB

DEFENDANTS' ANSWER TO
PLAINTIFFS' CLASS-
ACTION CIVIL RIGHTS
COMPLAINT

The Defendants, Western State Hospital, et al , by and through their attorneys, Christine O Gregoire, Attorney General, and Pamela H Anderson, and Terrance J Ryan, Assistant Attorneys General, in answer to Plaintiffs' Complaint, admit, deny, and allege as follows

I. PRELIMINARY STATEMENT

1 1 Defendants admit the statements set forth in Paragraph 1 1, but deny any allegations of wrongdoing

1 2 Defendants admit the allegations set forth in Paragraphs 1 2

1 3 Paragraph 1 3 contains legal statements to which no response is required

1 4 Defendants admit the allegations set forth in Paragraph 1 4

1 5 Defendants deny the allegations set forth in Paragraph 1 5.

1 6 Paragraph 1 6 contains legal statements to which no response is required

1 7 Paragraph 1 7 contains legal statements to which no response is required

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PLAI
RIGH



CV 00-05749 #00000080

ATTORNEY GENERAL OF WASHINGTON
670 Woodland Square Loop SE
PO Box 40124
Olympia, WA 98504-0124
(360) 459-6558

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II. JURISDICTION AND VENUE

2 1 Paragraph 2 1 contains legal statements to which no response is required

3 2 2-2 3 Defendants admit the allegations set forth in Paragraph 2 2 through 2 3 but
4 state that this Court should abstain from exercising its jurisdiction as to certain of the claims set
5 forth herein and further state certain claims in this action are barred by the Eleventh Amendment

6 2 4 Defendants deny the allegations set forth in Paragraph 2 4

7 2 5 Defendants admit the allegations set forth in Paragraph 2 5

III. PARTIES

A. Plaintiffs

10 3 1 Defendants admit the allegations set forth in Paragraph 3 1

11 3 2 Defendants admit the allegations set forth in Paragraph 3 2

12 3 3 Defendants deny the allegations set forth in Paragraph 3 3

13 3 4 Defendants admit the allegations set forth in Paragraph 3 4

14 3 5 Defendants deny the allegations set forth in Paragraph 3 5

15 3 6 Defendants admit the allegations set forth in Paragraph 3 6

16 3 7 Defendants deny the allegations set forth in Paragraph 3 7

17 3 8 Defendants admit the allegations set forth in Paragraph 3 8

18 3 9 Defendants deny the allegations set forth in Paragraph 3 9

19 3 10 Defendants admit the allegations set forth in Paragraph 3 10

20 3 11 Defendants deny the allegations set forth in Paragraph 3 11

21 3 12 Defendants admit the allegations set forth in Paragraph 3 12

22 3 13 Defendants deny the allegations set forth in Paragraph 3 13

23 3 14 Defendants admit the allegations set forth in Paragraph 3 14.

24 3 15 Defendants admit the allegations set forth in Paragraph 3 15

25 3 16 Defendants deny the allegations set forth in Paragraph 3 16

B. Defendants

3 17 Defendants admit the allegations set forth in Paragraph 3 17

3 18 Defendants admit the allegations set forth in Paragraph 3 18

3 19 Defendants admit that Defendant Gregg is the Chief Executive Officer of WSH, and that she has the duties set forth in 1 1 1 of the WSH Policy Manual To the extent that Paragraph 3 19 sets forth different or additional allegations, it states a legal conclusion to which no response is required

3 20 Defendants admit the allegations set forth in Paragraph 3.20

3.21 Defendants admit that Defendant Klein is the Medical Director of WSH and that he has the duties set forth in 1 1 1 of the WSH Policy Manual To the extent that Paragraph 3 21 sets forth different or additional allegations, it states a legal conclusion to which no response is required

3 22 Defendants admit the allegations set forth in Paragraph 3 22

3 23 Defendants admit the allegations set forth in Paragraph 3 23

3 24 Defendants admit that Defendant Hamilton is the Chairman of the Management

- Manual, General

Section at p 1 To the extent that Paragraph 3 24 sets forth different or additional allegations, it states a legal conclusion to which no response is required

3 25 Defendants admit the allegations set forth in Paragraph 3 25

3 26 Defendants deny the allegations set forth in Paragraph 3 26 because Defendant Pat Terry resigned effective January 12, 2001 Jack Morris is the Acting Director of the Mental Health Division, and, as he is being sued in his official capacity, substitution is automatic pursuant to Fed R Civ Pro 25(d)(1)

3 27 Defendants deny the allegations set forth in Paragraph 3 27 because Defendant Pat Terry resigned effective January 12, 2001 Jack Morris is the Acting Director of the Mental Health Division, and, as he is being sued in his official capacity, substitution is automatic pursuant to Fed

1 R Civ Pro 25(d)(1) The remaining allegations state legal conclusions to which no response is
2 required

3 3 28 Paragraph 3 28 states a legal conclusion to which no response is required

4 3 29 Defendants admit the allegations set forth in Paragraph 3 29

5 3 30 Paragraph 3 30 states a legal conclusion to which no response is required

6 3 31 Paragraph 3 31 states a legal conclusion to which no response is required

7 3 32 Defendants admit the allegations set forth in Paragraph 3 32

8 3 33 Defendants admit the allegations set forth in Paragraph 3 33

9 3 34 Paragraph 3 34 states a legal conclusion to which no response is required

10 3 35 Defendants admit the allegations set forth in Paragraph 3 35

11 3 36 Paragraph 3 36 states a legal conclusion to which no response is required

12 3 37 Paragraph 3 37 states a legal conclusion to which no response is required

13 3 38 Defendants deny the allegations set forth in Paragraph 3 38

14 3 39 Paragraph 3 39 states a legal conclusion to which no response is required

15 IV. CLASS ACTION ALLEGATIONS

16 4 1-4 5 Defendants have agreed that a class action would be justified in this action
17 and have joined Plaintiffs in submitting a Proposed Order for Class Certification To the extent the
18 allegations in Paragraphs 4.1 through 4 5 exceed or are inconsistent with the specific terms of that
19 order, Defendants deny such allegations, including the allegations set forth in Paragraph 4 4

20 V. STATEMENT OF FACTS

21 5 1 Defendants reassert the statements set forth in Paragraphs 1 1 through 4 5 above

22 5 2 Defendants deny the allegations set forth in Paragraph 5 2

23 5 3 Defendants admit that on or about August 1, 2000, WPAS engaged Mark Fleisher,
24 M D to review conditions at CFS and that Dr Fleisher wrote the report attached to Plaintiffs'
25 Motion for Preliminary Injunction Defendants lack sufficient information and knowledge to admit
26 or deny the remaining allegations of Paragraph 5 3

1 5 4 Defendants admit that on or about October 23, 2000, WPAS engaged Henry
2 Dlugacz to review conditions at CFS. Defendants lack sufficient information and knowledge to
3 admit or deny the remaining allegations of Paragraph 5 4.

4 5 5-5 16 Defendants deny the allegations set forth in Paragraphs 5 5 through 5 16

5 5 17 Defendants admit that both men and women use the same showers and that the
6 washer and dryer on one unit are located in the men's bathroom. Defendants deny the other
7 allegations set forth in Paragraph 5 17.

8 5.18 Defendants admit that on August 31, 2000, Ms. Farmer was grabbed by a male
9 resident on the ward. Defendants also admit that staff warned the female patients on the ward that
10 his male patient was sexually aggressive. Defendants deny the remainder of Paragraph 5 18.

11 5 19 Defendants admit that Ms. Wolters was noted to have certain bruises, however,
12 Defendants deny these bruises were made during any type of assault.

13 5 20 Defendants lack sufficient knowledge or information to admit or deny the allegations
14 set forth in Paragraph 5 20.

15 5 21. Defendants deny the allegations set forth in Paragraph 5 21.

16 5 22 Defendants lack sufficient knowledge or information to admit or deny whether
17 Plaintiff Rust fears for her safety while at CFS. Defendants deny that male patients regularly make
18 sexually inappropriate comments to her or stalk her.

19 5 23 Defendants deny the allegations set forth in Paragraph 5 23.

20 5 24. Defendants deny the allegations set forth in Paragraph 5 24.

21 5 25. Defendants deny the allegations set forth in Paragraph 5 25.

22 5 26 Defendants deny the allegations set forth in Paragraph 5 26.

23 5 27 Defendants deny the allegations set forth in Paragraph 5 27.

24 5 28 Defendants deny the allegations set forth in Paragraph 5 28.

25 5 29 Defendants deny the allegations set forth in Paragraph 5 29.

26 5.30 Defendants deny the allegations set forth in Paragraph 5 30.

1 5 31 Defendants deny the allegations set forth in Paragraph 5 31
2 5 32 Defendants deny the allegations set forth in Paragraph 5 32
3 5 33 Defendants deny the allegations set forth in Paragraph 5 33
4 5 34 Defendants deny the allegations set forth in Paragraph 5 34
5 5 35 Defendants reassert the statements set forth in Paragraphs 1 1 through 5 34
6 5 36 Defendants admit that at certain times some wards of the CFS are overcensus
7 Defendants deny the remainder of the allegations set forth in Paragraph 5 36
8 5 37 Defendants deny the allegations set forth in Paragraph 5 37.
9 5 38 Defendants admit that patients sometimes sleep in the day, activity, and seclusion
10 rooms Defendants deny the allegations set forth in the remainder of Paragraph 5 38
11 5 39 Defendants lack sufficient knowledge or information to admit or deny the allegations
12 set forth in Paragraph 5 39
13 5 40 Defendants admit that occasionally there is more than one patient to a bedroom.
14 Defendants deny the remainder of Paragraph 5 40
15 5 41 Defendants admit the allegations set forth in Paragraph 5 41
16 5 42 Defendants admit that on certain occasions nine patients are sleeping in rooms
17 designed for seven or eight patients However, defendants deny that this situation lasts for an
18 extended period of time
19 5 43 Defendants deny the allegations set forth in Paragraph 5 43
20 5 44 Defendants lack sufficient knowledge or information to admit or deny the allegations
21 set forth in Paragraph 5 44
22 5 45 Defendants admit the bed capacities have been adjusted over the years when needed
23 Defendants lack sufficient knowledge or information to admit or deny the remainder of the sentence
24 in Paragraph 5 45
25 5 46 Defendants admit that there has been increased bed capacity on Ward N-7 over the
26 last ten years

1 5 47 Defendants admit that the Admission Ward has been briefly overcapacity and deny
2 the remaining allegations set forth in Paragraph 5 47

3 5 48 Defendants deny the allegations set forth in Paragraph 5 48

4 5 49 Defendants reallege the statements set forth in Paragraphs 1 1 through 5 48

5 5 50 Defendants deny the allegations set forth in Paragraph 5 50

6 5 51-5 58 Defendants deny the allegations set forth in Paragraph 5 51

7 5 59 Defendants admit that there have been times when there has only been one forensic
8 therapist/social worker on a ward due to hiring problems Defendants deny the remainder of
9 Paragraph 5 59

10 5 60 Defendants deny the allegations set forth in Paragraph 5 60

11 5 61 Defendants deny the allegations set forth in Paragraph 5 61

12 5 62 Defendants admit that line of sight observation is sometimes provided to more than
13 one patient by one staff Defendants deny the remaining allegations set forth in Paragraph 5 62

14 5 63 Defendants deny the allegations set forth in Paragraph 5 63

15 5 64 Defendants reallege statements set forth in Paragraphs 1 1 through 5 63

16 5 65 Defendants deny the allegations set forth in Paragraph 5 65

17 5 66 Defendants deny the allegations set forth in Paragraph 5 66

18 5 67 Defendants deny the allegations set forth in Paragraph 5 67

19 5 68 Defendants deny the allegations set forth in Paragraph 5 68

20 5 69 Defendants deny the allegations set forth in Paragraph 5 69

21 5 70 Defendants deny the allegations set forth in Paragraph 5 70

22 5 71 Defendants deny the allegations set forth in Paragraph 5 71

23 5 72 Defendants lack sufficient knowledge or information to admit or deny the allegations
24 set forth in Paragraph 5 72

25 5 73 Defendants deny the allegations set forth in Paragraph 5 73

26 5 74 Defendants deny the allegations set forth in Paragraph 5 74

1 5 75 Defendants lack sufficient knowledge or information to admit or deny the allegations
2 set forth in Paragraph 5 75

3 5 76 Defendants reallege the statements set forth in Paragraphs 1 1 through 5 75

4 5 77 Defendants deny the allegations set forth in Paragraph 5 77

5 5 78 Defendants deny the allegations set forth in Paragraph 5 78

6 5 79 Defendants deny the allegations set forth in sentence one of Paragraph 5 79

7 5 80 Defendants deny the allegations set forth in Paragraph 5 80

8 5 81 Defendants lack sufficient knowledge or information to admit or deny the allegations
9 set forth in Paragraph 5 81

10 5 82 Defendants deny the allegations set forth in Paragraph 5 82

11 5 83 Defendants deny the allegations set forth in Paragraph 5 83

12 5 84 Defendants deny the allegations set forth in Paragraph 5 84

13 5 85 Defendants deny the allegations set forth in Paragraph 5 85

14 5 86 Defendants deny the allegations set forth in Paragraph 5 86

15 5 87 Defendants lack sufficient knowledge or information to admit or deny the allegations
16 set forth in Paragraph 5 87

17 5 88 Defendants deny the allegations set forth in Paragraph 5 88

18 5 89 Defendants reallege statements set forth in Paragraphs 1 1 through 5 88

19 5 90 Defendants deny the allegations set forth in Paragraph 5 90

20 5 91 Defendants deny the allegations set forth in Paragraph 5 91

21 5 92 Defendants deny the allegations set forth in Paragraph 5 92

22 5 93 Defendants lack sufficient knowledge or information to admit or deny the allegations
23 set forth in Paragraph 5 93

24 5 94 Defendants lack sufficient knowledge or information to admit or deny the allegations
25 set forth in Paragraph 5 94

26

1 5 95 Defendants lack sufficient knowledge or information to admit or deny the allegations
2 set forth in Paragraph 5 95

3 5 96 Defendants deny the allegations set forth in Paragraph 5 96.

4 5 97 Defendants admit the CFS medical clinic was closed in October 2000 Defendants
5 deny the remaining allegations set forth in the remainder of Paragraph 5 97

6 5 98 Defendants deny the allegations set forth in the allegations set forth in Paragraph
7 5 98

8 5 99 Defendants deny the allegations set forth in Paragraph 5 99

9 5 100 Defendants deny the allegations set forth in Paragraph 5 100

10 5 101 Defendants deny the allegations set forth in Paragraph 5 101

11 5 102 Defendants admit the CFS medical clinic was closed in October 2000 Defendants
12 deny the remainder of allegations set forth in Paragraph 5 102

13 5.103 Defendants lack sufficient knowledge or information to admit or deny the allegations
14 set forth in Paragraph 5 103.

15 5 104 Defendants deny the allegations set forth in Paragraph 5 104

16 5 105 Defendants deny the allegations set forth in Paragraph 5 105

17 5 106 Defendants reallege statements set forth in Paragraphs 1.1 through 5 105

18 5 107 Defendants deny the allegations set forth in Paragraph 5.107

19 5 108 Defendants deny the allegations set forth in Paragraph 5 108

20 5 109 Defendants deny the allegations set forth in Paragraph 5.109

21 5 110 Defendants deny the allegations set forth in Paragraph 5.110

22 5 111 Defendants lack sufficient knowledge or information to admit or deny the allegations
23 set forth in Paragraph 5 111

24 5 112 Defendants admit that Plaintiff Harding waited for two years for her dentures, but
25 deny that this was the fault of the hospital

26 5 113 Defendants reallege statements set forth in Paragraphs 1 1 through 5 112

1 5 114 Defendants deny the allegations set forth in Paragraph 5 114
2 5 115 Defendants deny the allegations set forth in Paragraph 5 115
3 5 116 Defendants deny the allegations set forth in Paragraph 5 116.
4 5 117 Defendants deny the allegations set forth in Paragraph 5 117
5 5 118. Defendants deny the allegations set forth in Paragraph 5 118
6 5 119. Defendants deny the allegations set forth in Paragraph 5 119
7 5 120 Defendants deny the allegations set forth in Paragraph 5 120
8 5 121. Defendants admit that patients are occasionally placed on CFS when APU becomes
9 overcrowded. However, defendants deny that this happens on a regular basis
10 5 122 Defendants deny the allegations set forth in Paragraph 5 122
11 5 123 Defendants deny the allegations set forth in Paragraph 5 123.
12 5 124 Defendants reallege statements set forth in Paragraphs 1 1 through 5 123
13 5 125 Defendants deny the allegations set forth in Paragraph 5 125.
14 5 126 Defendants deny the allegations set forth in Paragraph 5 126.
15 5 127 Defendants deny the allegations set forth in Paragraph 5 127
16 5 128 Defendants reallege statements set forth in Paragraphs 1 1 through 5 127
17 5 129 Defendants deny the allegations set forth in Paragraph 5 129
18 5 130 Defendants deny the allegations set forth in Paragraph 5 130
19 5 131 Defendants deny the allegations set forth in Paragraph 5 131

VI. LEGAL CLAIMS

21 6 1 Defendants reallege statements set forth in Paragraphs 1 1 through 5 131
22 6 2 Defendants deny the allegations set forth in Paragraph 6 2
23 6 3 Defendants reallege statements set forth in Paragraphs 1 1 through 6 2
24 6 4 Defendants deny the allegations set forth in Paragraph 6 4
25 6 5 Defendants deny the allegations set forth in Paragraph 6 5
26

6 6 Defendants reallege statements set forth in Paragraphs 1.1 through 6 5

6 7 Defendants deny the allegations set forth in Paragraph 6 7

6 8 Defendants reallege statements set forth in Paragraphs 1 1 through 6 7

6 9 Defendants deny the allegations set forth in Paragraph 6 9

VII. AFFIRMATIVE DEFENSES

By way of further answer in affirmative defenses, the Defendants affirmatively allege that

1 All acts of the Defendants with respect to the Plaintiffs were done in the reasonable
2 belief that the same were in accordance with the Constitution and the laws of Washington State and
3 the United States. Thus, Defendants are entitled to qualified immunity from damages

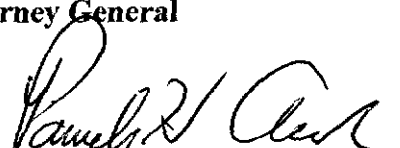
4 Any and all actions alleged in the complaint concerning the Plaintiffs were grounded
5 in good faith and were discretionary acts of an authorized state official. Thus, Defendants are
6 entitled to good faith immunity from liability for damages

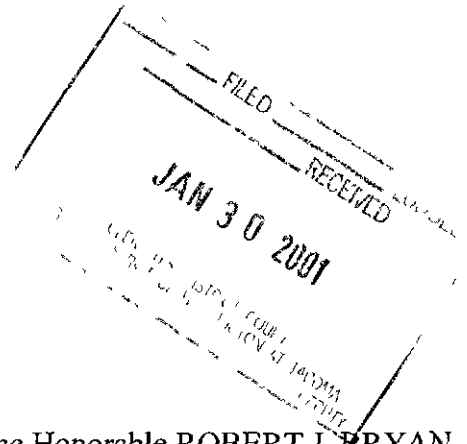
7 If the Plaintiffs sustained any damages as a result of conduct by a Defendant, the
8 same was the result of reasonable conduct, and such conduct of the Defendants under the
9 circumstances was justifiable

10 The Defendants are not liable in their official capacity because such liability is an
11 action against the State, barred by the

DATED this 29th day of January, 2001

CHRISTINE O. GREGOIRE
Attorney General


PAMELA H. ANDERSON, WSBA# 21835
TERRANCE J. RYAN, WSBA# 15205
Assistant Attorneys General
Attorneys for Defendants



The Honorable ROBERT J BRYAN

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

CHRISTI RUST, et al ,

Plaintiffs,

v

WESTERN STATE HOSPITAL, et al ,

Defendants

NO C00-5749RJB

CERTIFICATE OF SERVICE

I, R SAMPSON, of PO Box 40124, Olympia, Washington, certify as follows

1 I am, and at all times hereinafter mentioned was, over the age of 18 years,

2 I am a Legal Assistant employed by the Washington State Attorney General's
Office, Social and Health Services Division

3 On January 29, 2001, I served on all parties a copy of Defendants' Answer to
Plaintiffs' Class-Action Civil Rights Complaint and Certificate of Service to the following parties
as set forth below

///

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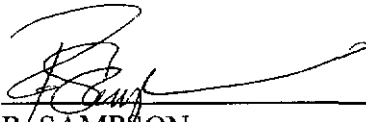
///

1 DEBORAH A DORFMAN
2 STACIE SIEBRECHT
3 WASHINGTON PROTECTION
& ADVOCACY SYSTEM, INC
4 180 West Dayton, Suite 102
Edmonds, WA 98020

[X] United States Mail
[] Overnight Delivery
[] Hand Delivery
[] Fax (425) 776-0601

5 I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF
6 WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT

7 Executed on January 29, 2001, in Lacey, Washington.

8 
9 R/ SAMPSON
10 Legal Assistant
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