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18 Attorneys for Plaintiff,
19 STEVEN COOPER

20 IN THE UNITED STATES DISTRICT COURT
21 FOR THE DISTRICT OF ARIZONA

22 Steven Harold Cooper,
23 Plaintiff,
24 v.
25 United States Of America,
26 and Does 1 through 10, inclusive
27 Defendants.

Case No.:

**COMPLAINT FOR
PERSONAL INJURIES
DUE TO MEDICAL
NEGLIGENCE**

1
2 Plaintiff, STEVEN COOPER, alleges as follows:

3 **GENERAL ALLEGATIONS**

4 1. This action arises under the Federal Tort Claims Act of 1948, 62 Stat.
5 982, 28 U.S.C. 1346(b), 2671, et seq.

6 2. Pursuant to 28 U.S.C. 1391(a), venue is proper in the Judicial District
7 where a substantial part of the events or omissions giving rise to the claim
8 occurred. In the above-entitled action, the Plaintiff, STEVEN COOPER, is
9 bringing this suit based upon the rendering of improper medical services
10 including, but not limited to, the denial of access to medical care, then the failure
11 to provide appropriate, timely, and competent medical care, at the Carl T. Hayden
12 VA Medical Center in Phoenix, Arizona. Therefore, venue is proper in the
13 District of Arizona.

14 3. A tort claim for damages for personal injury was filed on behalf of
15 STEVEN COOPER, pursuant to 28 U.S.C 2401 and 28 U.S.C 2671 through 2680.
16 This Tort Claim arose from acts and omissions that occurred at the Carl T.
17 Hayden VA Medical Center (VAMC), Phoenix, Arizona, when STEVEN
18 COOPER, a decorated veteran who served nearly 18 years in the United States
19 Army, was repeatedly denied access to medical care at the VAMC, then provided
20 with negligent medical care resulting in the delayed diagnosis and treatment of
21 prostate cancer.

22 4. The Department of Veterans Affairs denied the claim on May 21,
23 2015.

24 5. At all times mentioned herein, Plaintiff was a resident of Maricopa
25 County, Arizona.

26 6. Carl T. Hayden VA Medical Center, its physicians, nurses,
27 employees, agents, and representatives, were at all times material hereto acting as
28 agents and employees of Defendant, the United States of America, and were

1 within the course and scope of their agency and employment with Defendant, the
2 United States of America.

3 7. Defendant is liable for the negligent acts and omissions of its
4 employees, agents, and representatives acting within the course and scope of their
5 employment and agency under the doctrine of respondeat superior.

6 **FACTUAL BACKGROUND**

7 8. STEVEN COOPER, 44, previously a business owner and college
8 professor, served nearly 18 years in the United States Army from 1989 to 2007,
9 when he was honorably discharged. MR. COOPER'S years of service were
10 comprised of approximately nine years in active service, interspersed with service
11 in the National Guard and Army Reserves.

12 9. Following his honorable discharge from the United States Army,
13 MR. COOPER developed health problems. He repeatedly contacted the VAMC
14 seeking an appointment to be evaluated by a physician. Because of various and
15 systemic problems with the VA system, the VAMC continuously denied MR.
16 COOPER access to healthcare. For example, if MR. COOPER was able to obtain
17 an appointment, the VAMC would schedule the appointment for months later,
18 then, many times, cancel the appointment forcing him to attempt to reschedule.
19 Between June 2011 and December 2011, MR. COOPER repeatedly called and
20 visited the VAMC to schedule an appointment with a primary care physician, but
21 was told there were no appointments available and that the VAMC would contact
22 him when an appointment with a primary care physician became available.

23 10. MR. COOPER was finally seen by the VAMC on December 17,
24 2011, not by a physician, but by Shirlee Helton, a nurse practitioner. At that
25 appointment, Nurse Helton failed to properly examine, evaluate, diagnose, and
26 treat MR. COOPER. She performed a digital rectal exam and found that MR.
27 COOPER had an "asymmetrical [prostate] with left lobe slightly larger than right .
28 . . ." She did not, however, order any further testing, or refer MR. COOPER to a

1 urologist, or schedule any follow-up appointments for MR. COOPER, despite the
2 abnormal prostate exam result. In fact, Nurse Helton specifically told MR.
3 COOPER that there was nothing he could or should do about his abnormal
4 prostate exam results.

5 11. Over the next year, MR. COOPER continued to seek medical care
6 from the VAMC for the signs and symptoms for which he had seen Nurse Helton,
7 which were worsening. Finally, in December 2012, a VAMC doctor ordered a
8 prostate-specific antigen (PSA) test, the results of which were highly abnormal.
9 Therefore, a biopsy of MR. COOPER'S prostate was ordered. MR. COOPER had
10 the biopsy performed at the VAMC on December 14, 2012.

11 12. On December 21, 2012, MR. COOPER was seen at the VAMC by
12 Dr. Theodore Mobley. Dr. Mobley informed MR. COOPER that MR. COOPER
13 now had advanced prostate cancer, stage four, and that it was incurable and
14 terminal. Dr. Mobley then advised MR. COOPER to seek hospice care.

15 13. Instead, that same day, MR. COOPER went to a private physician
16 outside of the VA healthcare system. That physician immediately ordered tests,
17 and then scheduled MR. COOPER for a radical prostatectomy three weeks later,
18 which was carried out. In spite of the radical surgery, MR. COOPER is now
19 terminally ill. Because of the radical surgical procedure necessitated by the delay
20 in diagnosis and treatment, MR. COOPER also suffered severe and permanent
21 injuries, including incontinence, nerve damage, neuropathy, pain, osteopenia, hip
22 and pelvic fractures, gynecomastia, impotence, and weakness, among other
23 debilitating problems.

24 14. Had the VAMC properly seen, evaluated, diagnosed, and treated MR.
25 COOPER when he initially sought appointments for his signs and symptoms, MR.
26 COOPER'S disease would have been curable. Further, MR. COOPER would not
27 have had to undergo radical surgery with its attendant risks, complications, and
28 resulting permanent injuries, pain and suffering, and lost wages.

FIRST CAUSE OF ACTION

(Medical Negligence)

15. MR. COOPER incorporates by reference paragraphs 1 through 14, above.

16. Defendant undertook and contracted to provide medical care and treatment to MR. COOPER, and there was a patient/physician relationship between them. MR. COOPER relied upon Defendant to provide appropriate and timely examination, evaluation, diagnosis and medical treatment, and other medical services.

17. Defendant failed to provide MR. COOPER with appropriate and timely examinations, evaluation, diagnosis and medical treatment, and other necessary medical services by, among other things, delaying setting appointments, canceling appointments, failing to thoroughly exam and evaluate MR. COOPER's signs and symptoms when he was finally seen, failing to set follow-up appointments, and failing to timely diagnose MR. COOPER with prostate cancer, among other things. Defendant's treatment of MR. COOPER was below the applicable standard of care.

18. As a direct and legal result of the Defendant's negligence, and failure to meet the appropriate standard of care, MR. COOPER has suffered injuries, damages, and irreparable harm, as set forth above, entitling MR. COOPER to an award for general and special damages in an amount to be determined at trial.

19. As a further direct and legal result of the acts and omissions of the Defendant, MR. COOPER was compelled to and did employ the services of physicians, surgeons, nurses, and other health care professionals, to handle and care for MR. COOPER's treatment, and did incur related expenses. MR. COOPER will incur additional medical health care expenses in the future.

20. As a further direct and legal result of the acts and omissions of the Defendant, MR. COOPER suffered past and future loss of earnings in an amount

1 to be determined at time of trial.

2 WHEREFORE, MR. COOPER prays for judgment against Defendant, as
3 follows:

- 4 1. For past and future general damages according to proof;
- 5 2. For past and future special damages to be incurred according to
6 proof;
- 7 3. For other expenses to be proven at time of trial;
- 8 4. For costs of suit and reasonable attorney's fees incurred herein; and
- 9 5. For such other and further relief as the Court may deem just and
10 proper.

11
12 October 26, 2015

13 By: /s/ Gregory Patton

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