



significant pain as a result of the encounter with defendant Horne. However, a jury would not be compelled to accept these allegations at face value. Consequently, plaintiff's credibility as to the averments against defendant Horne is an issue that must be resolved at trial. Accordingly, the above order is appropriate.

s/ David Stewart Cercone  
David Stewart Cercone  
United States District Judge

cc: Honorable Cathy Bissoon  
United States Magistrate Judge

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