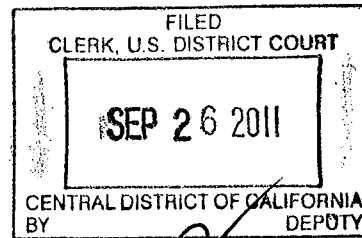


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8 Attorney for Plaintiffs

9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA

11 HERIBERTO RODRIGUEZ,
12 CARLOS FLORES, ERICK NUNEZ,
13 JUAN CARLOS SANCHEZ, and
14 JUAN TRINIDAD

15 Plaintiffs,

16 vs.

17 COUNTY OF LOS ANGELES, LOS
18 ANGELES SHERIFF'S
19 DEPARTMENT, FRANCISCO
20 ALONSO, LT. CHRISTOPHER
21 BLASNEK, JUSTIN BRAVO,
22 ENRIQUE CANO, ALEJANDRO
23 HERNANDEZ CASTANON, CAPT.
24 DANIEL CRUZ, IVAN
25 DELATORRE, HERMAN
26 DELGADO, J. DEMOOY, ARTHUR
27 DIAZ, JR., ADOLPH ESQUEDA,
28 MICHAEL FRAZIER, ANTONIO
GALINDO, ARMANDO
GONZALEZ, NICHOLAS
GRAHAM, JAVIER GUZMAN, J.
HILL, B. JACKSON, M. JUAREZ,
R. LANGARCIA, M. LOCKHART,
ANDREW LYONS, SGT. MICHEL
McGRATTAN, JOHN
McNICHOLAS, SGT. J. MENDOZA,
A. MONTES, MATTHEW
NOWOTNY, SGT. MATT
ONHEMUS, BLAKE ORLANDOS,
CARLOS ORTEGA, R.
PATTERSON, J. PUGA, FRANK
QUINTANA, A. RIVERA,

No. CV 10-6342 CBM(AJWx)

~~PROPOSED~~ SECOND
AMENDED COMPLAINT FOR
DAMAGES FOR VIOLATIONS
OF FEDERAL CIVIL RIGHTS
(EIGHTH AND FOURTEENTH
AMENDMENT) 42 U.S.C. § 1983;
CAL. CIV. CODE § 52.1;

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G. RODRIGUEZ, ADRIAN RUIZ,)
JOSEPH SANFORD, CLAYTON)
STELTER, MATTHEW THOMAS,)
HECTOR VAZQUEZ, SGT.)
KELLEY WASHINGTON and)
DOES 1 THROUGH 10,)

Defendants.)
_____)

Plaintiffs allege as follows:

JURISDICTION AND VENUE

1. The court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal question) and 28 U.S.C. § 1343(3) (civil rights). As plaintiffs’ state law claims arise out of a common nucleus of facts, the court has jurisdiction over them pursuant to 28 U.S.C. § 1367 (supplemental jurisdiction). Venue lies in the Central District of California, the judicial district in which the claim arose, pursuant to 28 U.S.C. § 1392(b).

INTRODUCTION

2. This is an action for money damages against defendants and arises out of a mass beating at Men’s Central Jail on August 25, 2008. Plaintiffs, along with fifteen to thirty other jail inmates, either refused to leave their cells in protest of the earlier beating of another inmate or were not given a chance to leave. Defendants extracted plaintiffs, along with other “high power” module inmates, with such extreme and excessive force that eight inmates had to be hospitalized for injuries which included a fractured leg, a fractured arm, an orbital fracture, a fractured skull, a fractured hand, a fractured ankle, a nasal fracture, head trauma and seizures. Plaintiffs and the other inmates were beaten three weeks after Deputy Juan Escalante, who worked in the “high power” module was killed outside his home in Cypress Park. Prior to the beatings jail deputies told inmates

1 that they were going to beat or kill Hispanic gang members because they
2 (wrongly) believed that a jail inmate had placed a hit on Deputy Escalante. (This
3 theory appears to have been incorrect as the men arrested for Deputy Escalante's
4 death are believed to have mistaken him for a rival gang member.)

5 **PARTIES**

6 3. Plaintiffs HERIBERTO RODRIGUEZ, CARLOS FLORES, ERICK
7 NUNEZ, JUAN CARLOS SANCHEZ, and JUAN TRINIDAD are competent
8 adults. At all times relevant hereto they were residents of the County of Los
9 Angeles, California.

10 4. Defendant COUNTY OF LOS ANGELES ("COUNTY") is a county
11 operating pursuant to the laws of the State of California.

12 5. Defendant LOS ANGELES SHERIFF'S DEPARTMENT ("LASD")
13 is a local government entity created under the laws of the state of California and
14 an agency of defendant COUNTY. The LASD is responsible for operating the
15 Los Angeles County jail facilities, including promulgating policies and
16 procedures at those facilities.

17 6. Defendant CAPT. DANIEL CRUZ was a supervisor and a member
18 of the LASD and at all times herein mentioned acted under the color of law.

19 7. Defendant LT. CHRISTOPHER BLASNEK was a supervisor and a
20 member of the LASD and at all times herein mentioned acted under the color of
21 law.

22 8. Defendant SGT. MATT ONHEMUS was a supervisor and a member
23 of the LASD and defendants CLAYTON STELTER, ANDREW LYONS,
24 FRANK QUINTANA, JUSTIN BRAVO, JAVIER GUZMAN, HERMAN
25 DELGADO, ADRIAN RUIZ, CARLOS ORTEGA, ARMANDO GONZALEZ,
26 were members of the LASD and part of the Red Extraction Team who extracted
27 plaintiff CARLOS FLORES and at all times herein mentioned acted under the
28 color of law.

1 9. Defendants SGT. MICHEL McGRATTAN, FRANCISCO
2 ALONSO, ADOLPH ESQUEDA, ANTONIO GALINDO, ALEJANDRO
3 HERNANDEZ CASTANON, MATTHEW NOWOTNY, CLAYTON STELTER,
4 MATTHEW THOMAS, JOSEPH SANFORD were members of the LASD and
5 part of the Red Extraction Team who extracted plaintiffs HERIBERTO
6 RODRIGUEZ, JUAN SANCHEZ and ERICK NUNEZ and at all times herein
7 mentioned acted under the color of law.

8 10. Defendants SGT. KELLEY WASHINGTON, MICHAEL FRAZIER,
9 BLAKE ORLANDOS, NICHOLAS GRAHAM, ENRIQUE CANO, ARTHUR
10 DIAZ, JR., IVAN DELATORRE, HECTOR VAZQUEZ, JOHN McNICHOLAS
11 were members of the LASD and part of the Green Extraction Team who
12 extracted plaintiff JUAN TRINIDAD and at all times herein mentioned acted
13 under the color of law.

14 11. Defendants SGT. J. MENDOZA #292923, J. DEMOOY, R.
15 PATTERSON, A. MONTES, M. LOCKHART, F. QUINTANA, G.
16 RODRIGUEZ, J. PUGA, B. JACKSON, M. JUAREZ, J. HILL, #517819, R.
17 LANGARCIA, A. RIVERA, were members of the LASD and part of the
18 Emergency Response Team #2 and at all times herein mentioned acted under the
19 color of law.

20 12. Defendants whose names and identities are unknown are sued herein
21 under the names Does 1 to 10 (hereinafter "Does"). Plaintiffs are informed and
22 believe and on that basis allege that the Doe defendants are responsible in some
23 manner for the damages and injuries hereinafter complained of. Plaintiffs will
24 amend this complaint and give notice to the Doe defendants upon learning of
25 their names and capacities.

26 13. Plaintiffs are informed and believe and on that basis allege that at all
27 times herein mentioned, each defendant was the agent, servant and employee of
28 the other defendants and were acting at all times within the scope of their agency

1 and employment and with the knowledge and consent of their principal and
2 employer. At all times herein, defendants, and each of them, were acting under
3 the color of state law.

4 14. The claims of plaintiffs CARLOS FLORES, ERICK NUNEZ, JUAN
5 CARLOS SANCHEZ, and JUAN TRINIDAD were tolled by the timely filing of
6 an action, based upon the same set of facts, in the Superior Court of California.

7 15. Plaintiffs CARLOS FLORES, ERICK NUNEZ, JUAN CARLOS
8 SANCHEZ, and JUAN TRINIDAD have complied with the requirements of Cal.
9 Gov't Code § 910 which are prerequisite to filing a claim against a governmental
10 entity under state law.

11
12 **FIRST CLAIM FOR RELIEF**
13 **EIGHTH AND FOURTEENTH AMENDMENTS TO THE U.S.**
14 **CONSTITUTION – 42 U.S.C. § 1983**
15 **(ALL PLAINTIFFS AGAINST ALL DEFENDANTS)**

16 16. Plaintiffs hereby re-allege and incorporate paragraphs 1 through 11,
17 inclusive, of this Complaint as though each allegation was set forth at length
18 herein.

19 17. On August 25, 2008 plaintiffs were inmates at Men's Central Jail.
20 On that date, inmates refused to leave their cells in protest of the beating of
21 another inmate. A cell extraction team in full riot gear came to plaintiffs' cells.

22 18. Plaintiff HERIBERTO RODRIGUEZ laid on the floor of his cell and
23 did not respond to deputy commands, instead covering himself with a mattress.
24 Deputies fired projectiles at his ankles and legs which struck him three to six
25 times. Deputies then entered plaintiff's cell and began to kick him all over his
26 body as he was laid prone on the floor of his cell. One deputy pulled plaintiff's
27 shirt tight around his neck and began to choke him. Deputies kicked and
28 punched plaintiff until he was choked into unconsciousness. Plaintiff was then

1 literally shocked back to consciousness by the use of a Taser. Deputies continued
2 to apply the Taser until its entire charge was extinguished. The deputies then
3 used the fully charged Taser to shock plaintiff on his testicles, armpits, back,
4 buttocks, and the backs of his knees. One of the deputies had his knee on
5 plaintiff's right elbow and applied pressure in what plaintiff perceived was an
6 attempt to break his arm. Towards the end of the beating a deputy clubbed
7 plaintiff in the head with a flashlight which opened up a bloody wound.

8 19. As a direct and proximate result of defendants' foregoing wrongful
9 acts, plaintiff RODRIGUEZ has been hurt and injured in his health, strength,
10 activity and nervous system, including, **the fracturing of a tablespoon-sized**
11 **piece of his skull**, all of which have caused and continue to cause him great
12 mental, physical and nervous pain and suffering, humiliation, hardship, anxiety,
13 distress and anguish.

14 20. Plaintiff CARLOS FLORES was incarcerated in Cell # 4 of A Row in
15 the 3300 module. An extraction team of approximately ten Doe defendant
16 deputies and one or more Doe defendant supervisors approached plaintiff's cell.
17 Doe defendant deputies fired several rubber bullets at plaintiff and he fell to the
18 floor. After plaintiff fell to the floor two to three Doe defendant deputies entered
19 his cell and picked him up. These Doe defendant deputies held plaintiff and
20 pinned his arms to his sides as two to three other Doe defendant deputies took
21 turns beating him in the head and face with flashlights until he lost consciousness.
22 He regained consciousness when he was shocked awake by a Taser. Plaintiff
23 then was repeatedly beaten until he again lost consciousness. His next memory
24 was waking up in an emergency room.

25 21. As a direct and proximate result of defendants' foregoing wrongful
26 acts, plaintiff FLORES has been hurt and injured in his health, strength, activity
27 and nervous system, including, **seizures, a fractured sinus bone and multiple**
28 **fractures to the right eye socket, which required placement of metal plate, all**

1 of which have caused and continue to cause him great mental, physical and
2 nervous pain and suffering, humiliation, hardship, anxiety, distress and anguish.

3 22. Plaintiff ERICK NUNEZ was incarcerated in Cell # 4 of B Row in
4 the 3300 module. An extraction team stopped at his cell, doused him with
5 pepper spray and fired what he believes were 40mm less lethal rounds at him. A
6 stinger grenade was then thrown into his cell. Four to five Doe defendant
7 deputies entered his cell and despite the fact that he was not resisting, beat him,
8 including kicks to his upper body and head and use of a Taser on his legs. At
9 some point during the beating he lost consciousness.

10 23. As a direct and proximate result of defendants' foregoing wrongful
11 acts, plaintiff NUNEZ has been hurt and injured in his health, strength, activity
12 and nervous system, including, **a fractured ankle**, all of which have caused and
13 continue to cause him great mental, physical and nervous pain and suffering,
14 humiliation, hardship, anxiety, distress and anguish.

15 24. Plaintiff JUAN CARLOS SANCHEZ believes that he was
16 incarcerated in Cell # 12 of A Row in the 3300 module. An extraction team
17 stopped at his cell and began firing less lethal weapons into his cell. Doe
18 defendant deputies entered his cell and repeatedly kicked him in the head and
19 face as he lay on the floor of his cell. Plaintiff was not fighting. Plaintiff was
20 repeatedly Tasered. He heard and felt what sounded like a flashlight repeatedly
21 striking his left leg. Plaintiff lost consciousness three times, once in his cell, once
22 just outside his cell and once in the dining hall which he was dragged to.

23 25. As a direct and proximate result of defendants' foregoing wrongful
24 acts, plaintiff SANCHEZ has been hurt and injured in his health, strength, activity
25 and nervous system, including, **a fractured leg, scars on his face**, all of which
26 have caused and continue to cause him great mental, physical and nervous pain
27 and suffering, humiliation, hardship, anxiety, distress and anguish.

28 26. Plaintiff JUAN TRINIDAD believes that he was incarcerated in Cell

1 # 23 of A Row in the 3300 module. An extraction team came to his cell.
2 TRINIDAD was beaten unmercifully both before and after he was handcuffed by
3 Doe defendant deputies.

4 27. As a direct and proximate result of defendants' foregoing wrongful
5 acts, plaintiff TRINIDAD has been hurt and injured in his health, strength,
6 activity and nervous system, including, **two fractured ankles and a fractured**
7 **hand**, all of which have caused and continue to cause him great mental, physical
8 and nervous pain and suffering, humiliation, hardship, anxiety, distress and
9 anguish.

10 28. Defendant supervisors encouraged, knew or were deliberately
11 indifferent to the violations of plaintiffs' rights. At some point during the
12 beatings of plaintiffs a Doe defendant supervisor was heard telling deputies that
13 none of the inmates should be able to walk when they left their cells.

14 29. Plaintiffs sue for violations to the Eighth Amendment to the United
15 States Constitution by defendants who subjected plaintiffs to brutal and gratuitous
16 force which was unnecessary for any legitimate penal interest and amounted to
17 punishment.

18 30. Plaintiffs sue for violations to the Fourteenth Amendment to the
19 United States Constitution right to be free from gratuitous and excessive force
20 and punishment, and the Fourteenth Amendment right to due process of law.

21 31. At all times herein mentioned, the COUNTY OF LOS ANGELES
22 and the SHERIFF'S DEPARTMENT authorized and ratified the wrongful acts of
23 the individual defendants. The individual defendants' wrongful conduct was the
24 result of policies, practices and customs of the aforementioned defendants to
25 subject persons to outrageous and unreasonable seizures and dehumanizing abuse
26 and to coverup incidents of excessive force by its deputies. Furthermore,
27 plaintiffs' constitutional rights were violated as a proximate result of the
28 aforementioned defendants' deliberate indifference in the training and

1 supervision of its officers. Defendants are also liable for the failure to train their
2 employees where the failure to train amounts to deliberate indifference to the
3 rights of inmates, such as plaintiff with whom those employees are likely to come
4 into contact.

5 32. The defendants acted in reckless disregard for plaintiffs' rights
6 constituting willful violations of the Eighth and Fourteenth Amendments to the
7 Constitution of the United States

8 33. Plaintiffs and those acting on their behalf attempted to exhaust
9 administrative remedies, however, defendants refused to take or respond to the
10 complaints and the complaints of others who were injured during the mass
11 beatings of August 25, 2008 and also threatened at least one victim who tried to
12 complain.

13 34. The defendants acted in reckless disregard for plaintiffs' rights
14 constituting willful violations of the Eighth and Fourteenth Amendments to the
15 Constitution of the United States.

16 35. In doing the foregoing wrongful acts, defendants acted in reckless
17 and callous disregard for the constitutional rights of plaintiff. The wrongful acts
18 were willful, oppressive, fraudulent and malicious, thus warranting the award of
19 punitive damages against each individual defendant (but not the entity
20 defendants, which are immune from such damages) in an amount adequate to
21 punish the wrongdoers and deter future misconduct.

22 **SECOND CLAIM FOR RELIEF**

23 **DENIAL OF MEDICAL CARE**

24 **EIGHTH AND FOURTEENTH AMENDMENTS TO THE U.S.**

25 **CONSTITUTION – 42 U.S.C. § 1983**

26 **(ALL PLAINTIFFS AGAINST ALL DEFENDANTS)**

27 36. Plaintiffs hereby re-allege and incorporate paragraphs 1 through 32,
28 inclusive, of this Complaint as though each allegation was set forth at length

1 herein.

2 37. The defendants, by their conduct, violated plaintiffs' Fourteenth
3 Amendment rights by being deliberately indifferent to their health, safety and
4 medical care.

5 38. Defendants COUNTY, LOS ANGELES SHERIFF'S
6 DEPARTMENT and DOE County employees violated plaintiffs' Fourteenth
7 Amendment rights by being deliberately indifferent to their health, safety and
8 medical care and by not treating them for their injuries or providing them with
9 minimum medical care.

10 39. As a direct and proximate result of defendants' foregoing wrongful
11 acts, plaintiffs have been hurt and injured in their nervous system, all of which
12 have caused and continue to cause them great mental, physical and nervous pain
13 and suffering, humiliation, hardship, anxiety, distress and anguish.

14 40. In doing the foregoing wrongful acts, defendants acted in reckless
15 and callous disregard for the constitutional rights of plaintiff. The wrongful acts
16 were willful, oppressive, fraudulent and malicious, thus warranting the award of
17 punitive damages against each individual defendant (but not the entity
18 defendants, which are immune from such damages) in an amount adequate to
19 punish the wrongdoers and deter future misconduct.

20 **THIRD CLAIM FOR RELIEF**

21 **EXCESSIVE FORCE**

22 **THREATS, INTIMIDATION OR COERCION**

23 **(Civil Code Section 52.1)**

24 **(FLORES, SANCHEZ, NUNEZ & TRINIDAD AGAINST ALL**
25 **DEFENDANTS)**

26 41. Plaintiffs hereby re-allege and incorporate paragraphs 1 through 37,
27 inclusive, of this Complaint as though each allegation was set forth at length
28 herein.

1 42. The defendants, by their conduct, interfered by threats, intimidation,
2 or coercion, or attempted to interfere by threats, intimidation, or coercion, with
3 the exercise or enjoyment of plaintiffs' rights as secured by the Eighth and
4 Fourteenth Amendment to the United States Constitution or laws of the United
5 States, and of the rights secured by the Constitution or laws of the State of
6 California, including the right to be free from excessive force.

7 43. In doing the foregoing wrongful acts, defendants were guilty of
8 oppression, fraud or malice so that, plaintiffs, in addition to the actual damages,
9 may recover damages for the sake of example and by way of punishing the
10 defendants.

11 **FOURTH CLAIM FOR RELIEF**
12 **DENIAL OF MEDICAL CARE**
13 **THREATS, INTIMIDATION OR COERCION**
14 **(Civil Code Section 52.1)**
15 **(FLORES, SANCHEZ, NUNEZ & TRINIDAD AGAINST ALL**
16 **DEFENDANTS)**

17 44. Plaintiffs hereby re-allege and incorporate paragraphs 1 through 40,
18 inclusive, of this Complaint as though each allegation was set forth at length
19 herein.

20 45. The defendants, by their conduct, interfered by threats, intimidation,
21 or coercion, or attempted to interfere by threats, intimidation, or coercion, with
22 plaintiffs' Fourteenth Amendment rights by being deliberately indifferent to their
23 health, safety and medical care.

24 46. Defendants COUNTY, LOS ANGELES SHERIFF'S
25 DEPARTMENT and DOE County employees violated plaintiffs' Fourteenth
26 Amendment rights by being deliberately indifferent to their health, safety and
27 medical care and by not treating them for their injuries or providing them with
28 minimum medical care.

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- (d) Costs of suit necessarily incurred herein; and,
- (e) Such further relief as the court deems just or proper.

Dated: August 25, 2011

LAW OFFICES OF JAMES S. MULLER

By /s/ James S. Muller
James S. Muller
Attorney for Plaintiffs