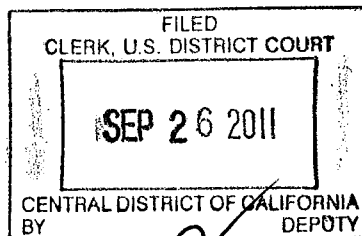


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8 Attorney for Plaintiffs

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. DEMOY, 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.

1           47. In doing the foregoing wrongful acts, defendants were guilty of  
2 oppression, fraud or malice so that, plaintiffs, in addition to the actual damages,  
3 may recover damages for the sake of example and by way of punishing the  
4 defendants.

5  
6                                   **FIFTH CLAIM FOR RELIEF**  
7                                   **ASSAULT AND BATTERY**  
8                                   **(FLORES, SANCHEZ, NUNEZ & TRINIDAD AGAINST ALL**  
9                                   **DEFENDANTS)**

10  
11           48. Plaintiffs hereby re-allege and incorporate paragraphs 1 through 44,  
12 inclusive, of this Complaint as though each allegation was set forth at length  
13 herein.

14           49. The defendants, by their conduct, did intend to and did cause a  
15 harmful contact to plaintiffs.

16           50. In doing the foregoing wrongful acts, defendants were guilty of  
17 oppression, fraud or malice so that, plaintiffs, in addition to the actual damages,  
18 may recover damages for the sake of example and by way of punishing the  
19 defendants.

20  
21                                   **PRAYER**

22           WHEREFORE, plaintiffs pray for judgment as follows:

23           (a) Compensatory general and special damages according to proof;

24           (b) Exemplary and/or punitive damages against the individual defendants,  
25 according to proof;

26           (c) Reasonable attorneys' fees and expenses of litigation as provided for by  
27 42 U.S.C. § 1988, Cal. Civ. Code § 52.1 and whatever other provision of law  
28 may be applicable;

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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