

**U.S. District Court
District of Colorado (Denver)
CIVIL DOCKET FOR CASE #: 1:10-cv-01840-WYD-BNB**

Clay et al v. Pelle et al
Assigned to: Chief Judge Wiley Y. Daniel
Referred to: Magistrate Judge Boyd N. Boland
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 08/03/2010
Date Terminated: 08/25/2011
Jury Demand: None
Nature of Suit: 555 Prison Condition
Jurisdiction: Federal Question

Plaintiff

David Clay

represented by **David Cyrus Fathi**
American Civil Liberties Union-DC
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ATTORNEY TO BE NOTICED

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Plaintiff

Matthew Deherrera

represented by **David Cyrus Fathi**
(See above for address)
ATTORNEY TO BE NOTICED

Mark Silverstein
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ATTORNEY TO BE NOTICED

Rebecca Teitelbaum Wallace
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Lamont Morgan

represented by **David Cyrus Fathi**
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ATTORNEY TO BE NOTICED

Mark Silverstein
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ATTORNEY TO BE NOTICED

Rebecca Teitelbaum Wallace
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

William LaFontaine

represented by **David Cyrus Fathi**
(See above for address)
ATTORNEY TO BE NOTICED

Mark Silverstein
(See above for address)
ATTORNEY TO BE NOTICED

Rebecca Teitelbaum Wallace
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Cynthia Shaw–Pierce
*on behalf of themselves and all others
similarly situated*

represented by **David Cyrus Fathi**
(See above for address)
ATTORNEY TO BE NOTICED

Mark Silverstein
(See above for address)
ATTORNEY TO BE NOTICED

Rebecca Teitelbaum Wallace
(See above for address)
ATTORNEY TO BE NOTICED

V.

Defendant

Joe Pelle
*in his official capacity as Boulder County
Sheriff*

represented by **Andrew Ross Macdonald**
Boulder County Attorney's Office
P.O. Box 471
1325 Pearl Street
5th floor
Boulder, CO 80306
303–441–3190
Fax: 303–441–4794
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TERMINATED: 04/26/2011

David Evan Hughes
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ATTORNEY TO BE NOTICED

Defendant

Larry R. Hank
*in his official capacity as administrator of
the Boulder County Jail and Division
Chief of the Boulder County Sheriff Office*

represented by **Andrew Ross Macdonald**
(See above for address)
TERMINATED: 04/26/2011

David Evan Hughes

(See above for address)
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
08/03/2010	<u>1</u>	Class Action COMPLAINT for Injunctive and Declaratory Relief against Larry R. Hank and Joe Pelle (Filing fee \$ 350, Receipt Number 30103) Summons Issued, filed by Matthew Deherrera, David Clay, Lamont Morgan, Cynthia Shaw-Pierce, and William LaFontaine. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Civil Cover Sheet, # <u>3</u> Receipt)(lyg,) (Entered: 08/03/2010)
08/03/2010	<u>2</u>	Plaintiff's MOTION to Certify Class and Appoint Class Counsel, by Plaintiffs David Clay, Matthew Deherrera, William LaFontaine, Lamont Morgan and Cynthia Shaw-Pierce. (lyg,) (Entered: 08/03/2010)
08/06/2010	<u>3</u>	ORDER REFERRING CASE to Magistrate Judge Boyd N. Boland, by Chief Judge Wiley Y. Daniel on 8/6/10. (lyg,) (Entered: 08/09/2010)
08/10/2010	<u>4</u>	SUMMONS Returned Executed by All Plaintiffs. Larry R. Hank served on 8/4/2010, answer due 8/25/2010. (Silverstein, Mark) (Entered: 08/10/2010)
08/10/2010	<u>5</u>	SUMMONS Returned Executed by All Plaintiffs. Joe Pelle served on 8/4/2010, answer due 8/25/2010. (Silverstein, Mark) (Entered: 08/10/2010)
08/11/2010	<u>6</u>	ORDER Scheduling Conference set for 9/21/2010 08:30 AM in Courtroom A 401 before Magistrate Judge Boyd N. Boland, by Magistrate Judge Boyd N. Boland on 8/11/10. (gmssl,) (Entered: 08/11/2010)
08/25/2010	<u>7</u>	Defendants' ANSWER to <u>1</u> Complaint, by Larry R. Hank, Joe Pelle. (Attachments: # <u>1</u> Exhibit A)(Macdonald, Andrew) (Entered: 08/25/2010)
08/25/2010	<u>8</u>	RESPONSE to <u>2</u> MOTION to Certify Class filed by Defendants Larry R. Hank, Joe Pelle. (Attachments: # <u>1</u> Exhibit A)(Macdonald, Andrew) (Entered: 08/25/2010)
09/08/2010	<u>9</u>	Unopposed MOTION for Extension of Time to File Response/Reply as to <u>2</u> MOTION to Certify Class by Plaintiffs David Clay, Matthew Deherrera, William LaFontaine, Lamont Morgan, Cynthia Shaw-Pierce. (Attachments: # <u>1</u> Proposed Order (PDF Only))(Silverstein, Mark) (Entered: 09/08/2010)
09/08/2010	<u>10</u>	ORDER granting <u>9</u> Motion for Extension of Time to File Response/Reply. Plaintiffs shall filed their Reply in Support of Motion for Class Certification on or before September 15, 2010, by Chief Judge Wiley Y. Daniel on 09/08/2010.TEXT ONLY ENTRY - NO DOCUMENT ATTACHED (wydlc3,) (Entered: 09/08/2010)
09/08/2010	<u>11</u>	NOTICE of Entry of Appearance of <i>Rebecca Wallace</i> by Mark Silverstein on behalf of David Clay, Matthew Deherrera, William LaFontaine, Lamont Morgan, Cynthia Shaw-Pierce (Silverstein, Mark) (Entered: 09/08/2010)
09/14/2010	<u>12</u>	Proposed Scheduling Order by Plaintiffs David Clay, Matthew Deherrera, William LaFontaine, Lamont Morgan, Cynthia Shaw-Pierce. (Wallace, Rebecca) (Entered: 09/14/2010)
09/15/2010	<u>13</u>	REPLY to Response to <u>2</u> MOTION to Certify Class filed by Plaintiffs David Clay, Matthew Deherrera, William LaFontaine, Lamont Morgan, Cynthia Shaw-Pierce. (Silverstein, Mark) (Entered: 09/15/2010)
09/21/2010	<u>14</u>	Minute Entry for proceedings held before Magistrate Judge Boyd N. Boland: Scheduling Conference held on 9/21/2010. Discovery due by 3/21/2011. Dispositive Motions due by 4/21/2011. Proposed Pretrial Order due by 6/16/2011. Final Pretrial Conference set for 6/23/2011 09:30 AM in Courtroom A 401 before Magistrate Judge Boyd N. Boland. (Court Reporter FTR-G.Mattei) (bnbcd,) (Entered: 09/21/2010)
09/21/2010	<u>15</u>	SCHEDULING ORDER: by Magistrate Judge Boyd N. Boland on 9/21/10. (bnbcd,) (Entered: 09/21/2010)

09/21/2010	<u>16</u>	MINUTE ORDER : Proposed Pretrial Order due by 6/16/2011. Final Pretrial Conference set for 6/23/2011 09:30 AM in Courtroom A 401 before Magistrate Judge Boyd N. Boland, by Magistrate Judge Boyd N. Boland on 9/21/10.(bnbcd,) (Entered: 09/21/2010)
10/01/2010	<u>17</u>	Unopposed MOTION for Protective Order by Defendants Larry R. Hank, Joe Pelle. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Proposed Order (PDF Only))(Macdonald, Andrew) (Entered: 10/01/2010)
10/12/2010	<u>18</u>	MINUTE ORDER Setting Hearing on <u>2</u> MOTION to Certify Class and Appoint Class Counsel : Motion Hearing set for 12/1/2010 09:00 AM in Courtroom A1002 before Chief Judge Wiley Y. Daniel. by Chief Judge Wiley Y. Daniel on 10/12/2010. (erv,) (Entered: 10/12/2010)
10/12/2010	19	MEMORANDUM regarding <u>17</u> Unopposed MOTION for Protective Order filed by Larry R. Hank, Joe Pelle. Motion referred to Magistrate Judge Boyd N. Boland by Chief Judge Wiley Y. Daniel on 10/12/10. TEXT ONLY ENTRY – NO DOCUMENT ATTACHED (wydcd, rrk) (Entered: 10/12/2010)
10/13/2010	<u>20</u>	PROTECTIVE ORDER by Magistrate Judge Boyd N. Boland on 10/13/10. (bnbcd,) (Entered: 10/13/2010)
10/15/2010	<u>21</u>	MOTION FOR ORDER to SUPPLEMENT/AMENDMENT to <u>7</u> Answer to Complaint by Defendants Larry R. Hank, Joe Pelle. (Attachments: # <u>1</u> Proposed Document , # <u>2</u> Exhibit B , # <u>3</u> Proposed Order (PDF Only) (Macdonald, Andrew) (Modified on 10/18/2010 Edited Title to reflect this is a MOTION)(erv,). (Entered: 10/15/2010)
10/18/2010	22	Docket Annotation re: <u>21</u> MOTION for Order to Supplement <u>7</u> Answer. The Title has Been Changed to reflect that this is a MOTION to Supplement the Answer. TEXT ONLY ENTRY – NO DOCUMENT ATTACHED (erv,) (Entered: 10/18/2010)
10/18/2010	23	MEMORANDUM regarding <u>21</u> MOTION for Order to filed by Larry R. Hank, Joe Pelle. Motion referred to Magistrate Judge Boyd N. Boland by Chief Judge Wiley Y. Daniel on 10/18/10. TEXT ONLY ENTRY – NO DOCUMENT ATTACHED (wydcd, rrk) (Entered: 10/18/2010)
10/18/2010	<u>24</u>	MINUTE ORDER granting <u>21</u> Defendant's Motion for Order to File Supplemental Answer by Magistrate Judge Boyd N. Boland on 10/18/2010.(erv,) (Entered: 10/18/2010)
10/18/2010	<u>25</u>	SUPPLEMENTAL ANSWER to <u>7</u> Answer to Complaint by Defendants Larry R. Hank, Joe Pelle. (Attachments: # <u>1</u> Exhibit B)(erv,) (Entered: 10/18/2010)
10/18/2010	<u>26</u>	Unopposed MOTION to Reset <i>Hearing Date</i> by Plaintiffs David Clay, Matthew Deherrera, William LaFontaine, Lamont Morgan, Cynthia Shaw–Pierce. (Attachments: # <u>1</u> Proposed Order (PDF Only))(Wallace, Rebecca) (Entered: 10/18/2010)
10/20/2010	<u>27</u>	ORDER granting <u>26</u> Plaintiffs' Unopposed Motion to Reset Hearing Date on Plaintiffs' Motion to Certify Class and Appoint Counsel. Motion Hearing Reset for 1/26/2011 02:00 PM in Courtroom A1002 before Chief Judge Wiley Y. Daniel. by Chief Judge Wiley Y. Daniel on 10/20/2010.(erv,) (Entered: 10/21/2010)
01/19/2011	<u>28</u>	Unopposed MOTION for Extension of Time to <i>Designation Experts</i> by Plaintiffs David Clay, Matthew Deherrera, William LaFontaine, Lamont Morgan, Cynthia Shaw–Pierce. (Attachments: # <u>1</u> Proposed Order (PDF Only))(Wallace, Rebecca) (Entered: 01/19/2011)
01/19/2011	29	MEMORANDUM regarding <u>28</u> Unopposed MOTION for Extension of Time to <i>Designation Experts</i> filed by Matthew Deherrera, David Clay, Cynthia Shaw–Pierce, William LaFontaine, Lamont Morgan. Motion referred to Magistrate Judge Boyd N. Boland by Chief Judge Wiley Y. Daniel on 1/19/11. TEXT ONLY ENTRY – NO DOCUMENT ATTACHED (wydcd, rrk) (Entered: 01/19/2011)
01/20/2011	<u>30</u>	MINUTE ORDER :granting <u>28</u> Plaintiffs Unopposed Motion for Extension of Expert Designation Deadline. The parties shall designate all experts and provide opposing counsel with all information specified in Fed. R. Civ. P. 26(a)(2) on or

		before February 17, 2011, by Magistrate Judge Boyd N. Boland on 1/20/11.(bnbcd,) (Entered: 01/20/2011)
01/26/2011	<u>31</u>	Minute Entry for Motion Hearing proceedings held on 1/26/2011 before Chief Judge Wiley Y. Daniel. Taking under advisement <u>2</u> Motion to Certify Class. (Court Reporter: Terri Lindblom) (wydcd, rrk) (Entered: 01/27/2011)
02/17/2011	<u>32</u>	MOTION for Preliminary Injunction by Plaintiffs David Clay, Matthew Deherrera, William LaFontaine, Lamont Morgan, Cynthia Shaw–Pierce. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Exhibit, # <u>5</u> Exhibit, # <u>6</u> Exhibit, # <u>7</u> Exhibit, # <u>8</u> Exhibit, # <u>9</u> Exhibit)(Silverstein, Mark) (Entered: 02/17/2011)
02/24/2011	<u>33</u>	Unopposed MOTION for Leave to <i>Take the Deposition of Boulder County Jail Inmates</i> by Defendants Larry R. Hank, Joe Pelle. (Attachments: # <u>1</u> Proposed Order (PDF Only) Order Granting Leave to Take Depositions)(Macdonald, Andrew) (Entered: 02/24/2011)
02/25/2011	34	MEMORANDUM regarding <u>33</u> Unopposed MOTION for Leave to <i>Take the Deposition of Boulder County Jail Inmates</i> filed by Larry R. Hank, Joe Pelle. Motion referred to Magistrate Judge Boyd N. Boland by Chief Judge Wiley Y. Daniel on 2/25/11. TEXT ONLY ENTRY – NO DOCUMENT ATTACHED (wydcd, rrk) (Entered: 02/25/2011)
02/25/2011	<u>35</u>	Minute ORDER granting <u>33</u> Motion for Leave to Take the Deposition of Boulder County Jail Inmates by Magistrate Judge Boyd N. Boland on 02/25/11.(jjh,) (Entered: 02/25/2011)
02/25/2011	<u>36</u>	Minute ORDER Setting Hearing on MOTION for Preliminary Injunction <u>32</u> for 4/15/2011 02:30 PM before Chief Judge Wiley Y. Daniel. Defendants shall file a response to Plaintiffs Motion for a Preliminary Injunction <u>32</u> by 03/10/11. Any reply by Plaintiffs shall be filed by 03/24/11 by Chief Judge Wiley Y. Daniel on 02/25/11. (jjh,) (Entered: 02/25/2011)
03/08/2011	<u>37</u>	ORDER. Order granting <u>2</u> Motion for Class Certification. ORDERED that the Class is defined as all current and future prisoners in the Boulder County Jail who are subject to or affected by the defendants postcard–only policy. ORDERED that David C. Fathi and Mark Silverstien shall serve as Appointed Counsel representing all Class Members by Chief Judge Wiley Y. Daniel on 03/08/11.(jjh,) Modified on 3/8/2011 to correct spelling error (jjh,). (Entered: 03/08/2011)
03/10/2011	<u>38</u>	MINUTE ORDER : Settlement Conference set for 3/17/2011 01:45 PM before Magistrate Judge Boyd N. Boland, by Magistrate Judge Boyd N. Boland on 3/10/11. (bnbcd,) (Entered: 03/10/2011)
03/10/2011	<u>39</u>	RESPONSE to <u>32</u> MOTION for Preliminary Injunction filed by Defendants Larry R. Hank, Joe Pelle. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E)(Macdonald, Andrew) (Entered: 03/10/2011)
03/17/2011	<u>40</u>	Minute Entry for proceedings held before Magistrate Judge Boyd N. Boland: Settlement Conference held on 3/17/2011. No settlement was reached as to any claims. (bnbcd,) (Entered: 03/18/2011)
03/21/2011	<u>41</u>	MOTION for Order to <i>Hold Case In Abeyance Pending Finalization of Settlement</i> by Plaintiffs David Clay, Matthew Deherrera, William LaFontaine, Lamont Morgan, Cynthia Shaw–Pierce. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Proposed Order (PDF Only))(Silverstein, Mark) (Entered: 03/21/2011)
03/23/2011	<u>42</u>	Minute ORDER granting <u>41</u> Joint Motion to Hold Case in Abeyance Pending Finalization of Settlement <u>41</u> , is GRANTED. The Preliminary Injunction Hearing set for Friday, April 15, 2011 is VACATED and all other deadlines and proceedings are stayed pending finalization of the settlement by Chief Judge Wiley Y. Daniel on 03/23/11.(jjh,) (Entered: 03/23/2011)
04/25/2011	<u>43</u>	NOTICE of Entry of Appearance by David Evan Hughes on behalf of Larry R. Hank, Joe Pelle (Hughes, David) (Entered: 04/25/2011)
04/26/2011	<u>44</u>	MOTION to Withdraw as Attorney by Defendants Larry R. Hank, Joe Pelle. (Attachments: # <u>1</u> Proposed Order (PDF Only))(Macdonald, Andrew) (Entered: 04/26/2011)

		04/26/2011)
04/26/2011	<u>45</u>	MEMORANDUM regarding <u>44</u> MOTION to Withdraw as Attorney filed by Larry R. Hank, Joe Pelle. Motion referred to Magistrate Judge Boyd N. Boland by Chief Judge Wiley Y. Daniel on 4/26/11. TEXT ONLY ENTRY – NO DOCUMENT ATTACHED (wydcd, rrk) (Entered: 04/26/2011)
04/26/2011	<u>46</u>	MINUTE ORDER granting <u>44</u> Motion to Withdraw as Attorney. Attorney Andrew Ross Macdonald terminated by Magistrate Judge Boyd N. Boland on 04/26/11.(jjh,) (Entered: 04/26/2011)
04/27/2011	<u>47</u>	Unopposed MOTION for Attorney Fees by Plaintiffs David Clay, Matthew Deherrera, William LaFontaine, Lamont Morgan, Cynthia Shaw–Pierce. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit)(Wallace, Rebecca) (Entered: 04/27/2011)
04/27/2011	<u>48</u>	SETTLEMENT AGREEMENT by Plaintiffs David Clay, Matthew Deherrera, William LaFontaine, Lamont Morgan, Cynthia Shaw–Pierce. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit)(Wallace, Rebecca) (Entered: 04/27/2011)
04/27/2011	<u>49</u>	Joint MOTION for Order to <i>Approve Settlement</i> by Plaintiffs David Clay, Matthew Deherrera, William LaFontaine, Lamont Morgan, Cynthia Shaw–Pierce. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit)(Wallace, Rebecca) (Entered: 04/27/2011)
04/28/2011	<u>50</u>	Docket Annotation re: <u>48</u> Settlement Agreement was refiled at <u>49</u> Joint MOTION for Order to Approve Settlement using the correct motion event. TEXT ONLY ENTRY – NO DOCUMENT ATTACHED (mnf,) (Entered: 04/28/2011)
05/04/2011	<u>51</u>	MINUTE ORDER. Plaintiffs shall submit a proposed form of order re: <u>49</u> Joint MOTION for Order to Approve Settlement and the <u>47</u> Unopposed MOTION for Attorney Fees by 5/9/11, by Chief Judge Wiley Y. Daniel on 5/4/11. (lsw,) (Entered: 05/05/2011)
05/19/2011	<u>52</u>	Inmate Account STATEMENT by Plaintiff David Clay. (jjh,) (Entered: 05/19/2011)
06/10/2011	<u>53</u>	ORDER. A final fairness hearing is set for 08/17/11 at 4:00 PM to determine whether the terms and conditions provided for in the settlement are fair, reasonable, and adequate to the settlement class and whether such terms should be approved by the Court, re: <u>49</u> . See Order for details by Chief Judge Wiley Y. Daniel on 06/10/11. (jjh,) (Entered: 06/10/2011)
06/20/2011	<u>54</u>	MINUTE ORDER re: <u>53</u> Order. The Pretrial Conference set for 6/23/2011 is VACATED, by Magistrate Judge Boyd N. Boland on 6/20/11. (lsw,) (Entered: 06/20/2011)
06/20/2011	<u>55</u>	MINUTE ORDER. The Pretrial Conference set for 06/23/2011 is VACATED, by Magistrate Judge Boyd N. Boland on 06/20/2011. (wjc,) (Entered: 06/20/2011)
06/20/2011	<u>56</u>	Docket Annotation re: <u>55</u> Minute Order, <u>54</u> Minute Order. Document <u>54</u> Minute Order is a duplicate filing of <u>55</u> Minute Order. TEXT ONLY ENTRY – NO DOCUMENT ATTACHED. (wjc,) (Entered: 06/20/2011)
08/17/2011	<u>58</u>	MINUTE ENTRY for In Court Hearing proceedings held on 8/17/2011 before Chief Judge Wiley Y. Daniel. Granting <u>47</u> Plaintiffs Unopposed Motion for Attorneys Fees. Granting <u>49</u> Joint Motion for Approval of Settlement of Class Action and Entry of Stipulated Judgment and Order. (Court Reporter: Therese Lindblom) (wydcd, rrk) (Entered: 08/22/2011)
08/18/2011	<u>57</u>	ORDER Granting Final Approval of Settlement of Class Action. ORDERED that plaintiffs Unopposed Motion for Attorneys Fees <u>47</u> and the Parties Joint Motion to Approve Settlement of Class Action and Entry of Stipulated Judgment and Order <u>49</u> are hereby GRANTED. ORDERED that Defendants shall pay \$65,000 in attorneys' fees and costs within 14 days of this Order. ORDERED that this Court shall retain jurisdiction of this case for the purposes of enforcement of the settlement agreement by Chief Judge Wiley Y. Daniel on 08/18/11.(jjh,) (Entered: 08/18/2011)

08/25/2011	<u>59</u>	FINAL JUDGMENT. ORDERED that judgment is hereby entered in favor of Plaintiffs, David Clay; Matthew DeHerrera; Lamont Morgan; William LaFontaine; and Cynthia Shaw–Pierce, on behalf of themselves and all others similarly situated, and against Defendants, Joe Pelle, in his official capacity as Boulder County Sheriff; and Larry R. Hank, in his official capacity as administrator for the Boulder County Jail and Division Chief of the Boulder County Sheriff Office, as set forth in Exhibit 1 to Plaintiffs Joint Motion for Approval of Settlement of Class Action and Entry of Stipulated Judgment and Order. Consistentwith the parties agreement and the Courts Order of August 18, 2011 Defendants shall pay \$65,000.00 in attorneys fees and costs by Clerk on 08/25/11. Approved by Chief Judge Daniel(jjh,) Modified on 8/25/2011 to correct spelling error (jjh,). (Entered: 08/25/2011)
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