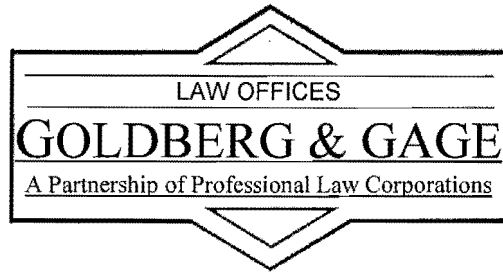


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March 1, 2012

County of Los Angeles  
Executive Officer, Board of Supervisors  
500 West Temple St.  
Attn: Claims, Room 383  
Kenneth Hahn Hall of Administration  
Los Angeles, California 90012

**Via Certified Mail, Return Receipt Requested**  
**7011 0110 0002 2308 9968**

Re: **Government Claims** of the Estate of Darrell Logan, Jr. - Supplemental Governmental Claim of the Estate of Christian Cobian; claim of Carmen Cobian; Juan Cobian Governmental Claim of Nikkia Wise; Supplemental Claim of William Fetters. Supplemental Claim of Marcos, Maria and DaMaso Chiclana, and of Ibara De Leon

Dear Sir or Madam:

Please consider this a notice of governmental claim, and to the extent any such claims are more than six months old, as an application for a late claim pursuant to California Government Code, Section 911.4. To the extent applicable, please also consider this a supplemental governmental claim.

**A. NAME OF THE CLAIMANTS:**

Estate of Darrell Logan, Jr.; Darrell Logan, Sr., Arzenia Ratliff, Lavette Thomas individually, and as the Guardian ad Litem of Emani Dineh Logan, a minor (Collectively, "the Logan family, or plaintiffs.") William Fetters; through his Guardian ad Litem Kim Harding; the Estate of Christian Cobian; Carmen Cobian; Juan Cobian; Nikkia Wise, Marcos Chiclana, Maria Chiclana, DaMaso Chiclana, Ibara De Leon; Sgt. Mark Moffett.

**B. ADDRESS TO SEND ALL NOTICES:**

Law Offices of Goldberg & Gage, 23002 Victory Blvd., Woodland Hills, CA 91367.

**C. THE DATE, PLACE AND OTHER CIRCUMSTANCES OF THE OCCURRENCE OR TRANSACTIONS WHICH GIVE RISE TO THE CLAIMS ASSERTED:**

Logan Shooting Address 3117 Heather Ave, Palmdale, CA 93550; October 13, 2011. Wrongful Death. The claimants are heirs.

Cobian shooting address: Between J-4 and 10<sup>th</sup> Street West, Lancaster, CA 93534

Fetters shooting 20<sup>th</sup> St. East by 10<sup>th</sup> St.

Chiclana beating: Antelope Valley Hospital - Prior Claims filed. This is a supplemental claim.

Wise beating West Ave. I near 15<sup>th</sup> St West.

Moffett - gun pointing incident Compton Sheriff's Station.

**D. GENERAL DESCRIPTION OF THE INJURY, DAMAGE OR LOSS INCURRED.**

**THERE ARE COMMON QUESTIONS OF LAW AND FACT:**

All of the claimants, or decedents were subjected to excessive force by members of the Los Angeles County Sheriff's Department, Palmdale/Lancaster Stations.

All of the plaintiffs were unarmed. (Except Moffett who is a Sheriff's Deputy, and had his gun in his holster.)

The Defendants were members of the Sheriff's Department in the Course and Scope of their Duties.

The Defendants engaged in illegal searches and seizures, violated the civil rights of each of the plaintiffs and targeted the plaintiffs because they are either African American or Latin American. Any Caucasian plaintiff was associated with African Americans

The defendants engaged in excessive force, false arrests, false imprisonment, assaults, batteries, malicious prosecutions, cover ups, the code of silence, falsifications of police reports, violations of the Bane Act and Ralph Act towards each of the plaintiffs, civil rights violations in violation of 42 USC Section 1983. Defendants further intentionally and negligently caused emotional distress to each plaintiff.

None of the Plaintiffs resisted arrest, yet they were beaten, or shot without justification. None of the civilian plaintiffs had a gun when they were shot. Defendants engaged in an illegal search and seizure on each plaintiff in violation of their constitutional rights.

The Department of Justice is, based on information and belief, investigating the Sheriff's Department for targeting "minorities" with excessive force.

Studies have demonstrated that “minorities” have been the subject of disproportionately high numbers of excessive force.

The Sheriff’s Department has tried to cover up its wrong doing, falsified reports and investigations, and dissuaded witnesses from filing complaints. Deputies adhere to a “code of silence” and the “good ole boys” philosophy.

Those plaintiffs who filed complaints of excessive force were then harassed by Sheriff’s Deputies who followed them, went to their homes, and tried to intimidate witnesses.

As an example, Darrell Logan Jr. was victim of an unjustified shooting by members of the Los Angeles County Sheriff’s Department on October 13, 2011 around 11:48a.m. He was shot in the back 11 times while his hands were up. There was no warrant for his arrest, he was not committing a crime at the time, not in possession of a weapon, and complied with officer commands. The autopsy report confirms all of the shots were in the back. Logan was African American. Based on information and belief, one of the motivating reasons for the shooting was his skin color and race/national origin.

Similarly, Christian Cobian was riding his bicycle on his way home from the store. Sheriff’s Deputies shot him in the leg and groin region. He was not armed. There was no justification for the shooting. He begged for help and for his mother. Deputies then walked up to him and executed him by shooting him in the head and other portions of his body while he laid on the ground suffering. Christian was Latino. Based on information and belief, one of the motivating reasons for the shooting was his skin color and race/national origin. Based on information and belief, the Deputies who shot Mr. Cobian include those who shot Mr. Logan and/or those who beat the other plaintiffs in this action, though their identities are not yet known. Specifically, based on information and belief, the individuals involved in the execution of Mr. Cobian were Deputies Esswein, Foster and Sorrow amongst others.

William Fetters, a 15 year old boy was also riding his bicycle when Deputies Sorrow and Campbell approached him. Sorrow without justification shot William in the back region. Sorrow knew based on information and belief that William’s grandmother and guardian had an African American boyfriend, described by a Sheriff’s Department witness as being “colored.”

Sorrow previously was found guilty of civil rights violations for beating Noel Bender, a Caucasian who lived in an almost exclusively African American apartment complex. When Bender was handcuffed and beaten, witnesses heard Sorrow yell “nigger lover” repeatedly. The Sheriff’s Department knowing of Sorrow’s actions, and the finding of punitive damages against him keep Sorrow as a training officer. The FTO’s help train other deputies in the proper way to treat members of the community.

In the Fetters action, it was revealed the defendants like to target bicyclists because “its easy.” Nikkia Wise also was bicycling when she was beaten by Deputies Esswein and Foster, as shown by the attached declarations. (Exhibits 1 and 2) which are incorporated by this reference. The beating was without justification. Based on information and belief, one of the motivating

reasons for the beating was her skin color and race. The deputies who beat Nikkia were Esswein and Foster. They were two of the deputies who beat Marcos Chiclana and forced his 70 year old mother to the ground.

Marcos Chiclana was at the hospital, assisting his father who just had open heart surgery. Deputies Esswein, Foster and others without justification beat Marcos. They knocked over his mother who is around 70 years old, frail and has dementia. His father Damaso was injured by the Deputies and based on information and belief nearly bled to death while undergoing life saving treatment at Los Angeles County Hospital where he was rushed because Antelope Valley Hospital could not assist him. Mr. DeLeon was with the Chiclana family when the beating occurred. The beating broke several bones in Marco's face. He may become permanently blind in one eye from the beating. Based on information and belief, one of the motivating reasons for the beating and injuries to these plaintiffs was their skin color, race and national origin. Additional facts are in the lawsuit copy of which is attached hereto as exhibit "3" and incorporated by this reference, and the declaration of Mr. Bozzo, exhibit "4".

When the Chiclana incident was on television, the Sheriff's Department spokesperson, Steve Whitmore, went on television and in the press and made defamatory statements. He gave false information to the media about the Department's attack on the Chiclana family. Moreover, he claimed there was a second video tape of the incident in possession of the Sheriff's Department. However, in the criminal action, when this was requested, the District Attorney claimed there was no such video. Thus, either Whitmore lied about this evidence, to defame the plaintiffs and put them into a false light, or he has concealed and destroyed evidence that would further demonstrate the actions of the deputies were unjustified in violation of civil rights, such as the Bane and Ralph Acts (which apply to all of the plaintiffs).

Sgt. Mark Moffett is part Asian, part Native American. He is a member of the Sheriff's Department. He was subjected to racial slurs and multiple acts of harassment as further set out in exhibit "5" which is a copy of his lawsuit and which is incorporated by this reference. The person who pointed a loaded gun at Sgt. Moffett is Sgt. Tim Cooper. Cooper is a confirmed member of both the Vikings and the Regulators. These groups of Sheriff's Deputies have been described by Judge Terry Hatter as being "Neo Nazi's" and "White Supremacists." Sgt. Booker previously testified to hearing the N word repeatedly by deputies and Lt. Tokuda testified that he heard numerous anti-Asian racial slurs in the Sheriff's Department. Sgt. Skrnich testified to making numerous racial slurs.

The highest ranking member of the Sheriff's Department is Lee Baca who has stated under oath that he is part Caucasian. Baca is elected. The highest appointed member of the Los Angeles County Sheriff's Department is the Under Sheriff, Mr. Paul Tanaka. Tanaka also has a Viking tattoo on his ankle. He received an invitation to the Vikings after he shot and killed an Asian man. The tattoos are numbered, and careful records are kept of the members. Based on information and belief, the Viking tattoo and Regulator tattoo include the image of a smoking gun. When a member of the Sheriff's Department kills a person, they get extra tattoo images such as more smoke signifying the number of people they killed. The shootings are unjustified and criminal in many instances, yet they are condoned by the Sheriff's Department.

United States Judge Terry Hatter described the Vikings as a neo nazi type of hate organization. Sheriff Baca recognized the prevalence of these gang like groups, said there was no justification for them, yet he promoted Tanaka to Under Sheriff even though Tanaka had a tattoo identifying himself as part of the Vikings. These Vikings have in some instances migrated to the Antelope Valley and based on information and belief were involved in the beatings and shootings of the plaintiffs.

On TV, when a Deputy filed a lawsuit about gang like groups in the Sheriff's Department (Lynwood Vikings, Regulators and the like) Sheriff Baca's response was that Deputies just need to "man up" and accept gang like behavior. The Deputy after complaining about racially based gangs was then threatened.

Sheriff Baca has stated in the media that Tanaka removed his tattoo before he was promoted by Baca. However, Assistant Sheriff Rhambo recently testified that Tanaka still has the tattoo on his ankle. When the head of the department provides false information to cover up wrong doing, it is easy to understand why so many acts of excessive force and cover up are occurring in the Sheriff's Department, particularly in the Antelope Valley.

Tanaka has specifically gone to meetings with new Sergeants telling them to work in the "gray area" and to protect one another. Officers are also trained to yell out "stop fighting" or "stop resisting" when they are beating a citizen to cover up their wrong doing. Tanaka has covered up investigations of officers for use of unjustified force.

The Sheriff's Department in the Antelope Valley (Palmdale and Lancaster stations) is well known for racially motivated crimes. Mr. Logan was African American. The Sheriff's Department is under investigation and has been sued repeatedly for hate based crimes against people "of color," specifically, African Americans and Latinos.

Tanaka also, based on information and belief, interfered with and obstructed investigations of deputies for use of force in multiple settings, including without limitation, at the Men's Central Jail, and Cooper's pointing a gun at Moffett. The protection of deputies who used excessive force in the jails created a problem for citizens because those deputies usually went from custody to patrol. They brought with them the tactics of beating people learned in the jails when they went to the streets. For an example of how deputies are beating inmates please see exhibit "6" attached hereto and incorporated by this reference. The ACLU has filed numerous reports of beatings by Sheriff's Deputies in Men's Central Jail, without provocation. In the past, when Lieutenants and Captains attempted to stop the excessive force, their efforts were squelched by the current undersheriff. (Tanaka)

In 2011, the Sheriff's Department had a judgment against it for over \$1.6 million when three deputies beat an apartment manager in Palmdale in a complex primarily African American. While the man was beaten (while in handcuffs) he was called a "nigger lover." Deputy Sorrow of the Sheriff's Department was alleged in another incident to have mercilessly slammed the head of an African American male into a wall until knocked unconscious. The victim was in handcuffs at the time. Sorrow further threatened to throw the man over a second story railing.

The racially motivated actions of the Sheriff's Department was a motivating reason, and a substantial factor in the unjustified and unwarranted shootings and beatings of these plaintiffs

The actions of the defendants and each of them support claims for violations of civil rights such as the Bane Act, Ralph Act, § 1983, negligence, wrongful death, battery, assault, false imprisonment, defamation, RICO based conspiracy, and civil rights violations. The plaintiffs also have claims for intentional infliction of emotional distress, negligence, defamation, false light, misrepresentation, failure to train, failure to take corrective action and other state and federal claims. Punitive damages are appropriate against the individual defendants.

Photographs of one of the defendants shooting victims are attached as exhibit "7".

**E. NAME OF PUBLIC EMPLOYEES CAUSING THE INJURY, DAMAGE OR LOSS TO COMPLAINANTS INCLUDE BUT ARE NOT LIMITED TO THE FOLLOWING:**

Los Angeles County Sheriffs Deputies whose names are not presently known, acting on behalf of the County of Los Angeles and the Los Angeles County Sheriff's Department, and other Sheriff's Deputies who were at the scene of the incidents. Discovery continues. Deputies Eswein, Foster and Sorrow and those named in the attached exhibits and listed above..

**F. THE AMOUNT OF CLAIMED DAMAGES EXCEEDS \$10,000, AND JURISDICTION WILL BE PROPER IN LOS ANGELES SUPERIOR COURT.**

If you contend this is not the proper location for a Governmental Claim, please advise of the proper address. Further, if County contends there are any administrative claims or remedies not pursued by complainant, please advise so that we can fulfill any administrative remedy requirements now. Thank you.

Very truly yours,  
Law Offices of Goldberg & Gage  
A Partnership of Professional Law Corporations



By Bradley C. Gage

**"Exhibit 1"**





1 their use of force on me.

2 13. Esswein was on my left side, pressing down on me. Foster was on my right side pressing down on  
3 me and choking me with my sweater. I was told the officers they were choking me.

4 14. Soon thereafter, more deputies arrived at the scene. One of the deputies told me that I was pulled  
5 over because I did not have a light on my bicycle.

6 15. Later, I had one deputy on my left side searching me and another deputy on my right searching me.  
7 Deputy Eswein repeatedly said "make sure you search her thoroughly." Eswein also made me  
8 take off my shoes.

9 16. Eventually, I was ticketed for not having a light on my bicycle and not having valid identification.  
10 While I do not have a driver's license or identification card, I did produce my Access Card, which  
11 has my name and photo. But deputies deemed that my card was not valid identification. I also  
12 believe the Deputies saw in the computer that I had gone to the DMV in December to obtain my  
13 identification card. While I did not have that identification yet, I believe the Deputies could see  
14 the identification card on the computer.

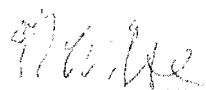
15 17. I was detained for about an hour before being allowed to leave. Subsequently, I went to the  
16 Lancaster Sheriff's station and filed a written complaint against Deputies Eswein and Foster.

17 18. At no time, did I fight back or resist the deputies. I just cried in pain. I believe that I was stopped  
18 and treated badly because I am African-American. I am aware of other minorities, including  
19 African-Americans, who were stopped without cause and poorly treated by Sheriff's deputies.

20 19. Since I have filed a complaint, Sheriff's Deputies have followed me, harassed my family and made  
21 me very concerned for my safety, causing me further extreme emotional distress.

22 20. I was told that one deputy has broken the nose of approximately 36 different people.

23 I declare the foregoing is true and correct under the penalty of perjury under the laws of the State  
24 of California and the United States. Executed on February 24, 2012 in Woodland Hills, California

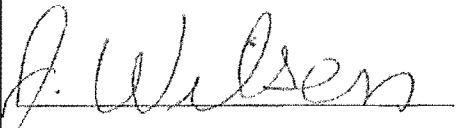
25 

26 \_\_\_\_\_  
27 Nikkia Wise, Declarant

**"Exhibit 2"**



1 I declare the foregoing is true and correct under the penalty of perjury under the laws of the State  
2 of California and the United States. Executed on February 24, 2012 in Woodland Hills, California

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5 Jamika Wilson Declarant

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**"Exhibit 3"**

Bradley C. Gage, Esq. S.B. No 117808  
Milad Sadr, Esq. S.B. No. 245080  
**LAW OFFICES OF GOLDBERG & GAGE**  
A Partnership of Professional Law Corporations  
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**CONFORMED COPY  
OF ORIGINAL FILED**  
Los Angeles Superior Court

NOV 29 2011

Attorneys for Plaintiff,  
MARCO CHICLANA, IBARRA DE LEON & MARIA CHICLANA

John A. Clarke, Executive Officer/Clerk  
By A. LaFleur-Clayton, Deputy  
A. LaFLEUR-CLAYTON

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES**

MARCO CHICLANA; IBARRA DE LEON;  
MARIA CHICLANA,

Plaintiff,

v.

COUNTY OF LOS ANGELES; DEPUTY  
JEREMY ESSWEIN, SGT. JUSTIN DIEZ  
DEPUTY CURTIS FOSTER, DEPUTY J.  
EPSTEIN, DEPUTY JUSTEN HOLM, in their  
Official and Individual capacities; and DOES 1-  
80, inclusive,

Defendants.

CASE NO:

**BC474298**

**COMPLAINT FOR DAMAGES AND  
DEMAND FOR JURY TRIAL;  
STATEMENT OF DAMAGES**

1. Assault and Civil Battery
2. Intentional Infliction of Emotional Distress
3. False Arrest and False Imprisonment
4. Malicious Prosecution
5. Violation of California Civil Code §52.1- Bane Act and other Civil Rights Violations.

**GENERAL ALLEGATIONS**

COMES NOW, MARCO CHICLANA, IBARRA DE LEON, and MARIA CHICLANA, who demand a jury trial and seeks monetary compensation against all Defendants, as set forth herein:

1. MARCO CHICLANA ("MARCO"), IBARRA DE LEON ("Ibarra") & MARIA CHICLANA ("Maria") (collectively, "Plaintiffs") were at all times relevant herein, residents of the State of California.
2. Plaintiffs are informed and believe, and thereon allege that, at all relevant times herein, Defendant COUNTY OF LOS ANGELES (hereinafter "COUNTY" or "defendant COUNTY" or

1 "Defendants") and DOES 1 - 10 and each of them, were public entities duly organized and existing  
2 under the laws of the State of California.

3 3. The COUNTY OF LOS ANGELES is organized into departments and offices, including the Los  
4 Angeles County Sheriff's Department (sometimes hereinafter: "LASD"). Each department is  
5 charged with responsibilities related to the function, progress and development of the COUNTY.

6 4. At all times herein mentioned, the COUNTY OF LOS ANGELES operated its Sheriff's  
7 Department (LASD) and employed Defendants ESSWEIN, DIEZ, FOSTER, EPSTEIN, HOLM  
8 and DOES 11-80.

9 5. Defendants ESSWEIN, DIEZ, FOSTER, EPSTEIN, HOLM and DOES 11-80 were at all times  
10 alleged herein members of the COUNTY OF LOS ANGELES' Sheriff's Department. DOES 11 -  
11 80, and each of them (hereinafter collectively referred to as "Defendants") were employees,  
12 employers, supervisors, managers, agents, joint venturers, directors, principals, or persons who  
13 were otherwise employed by or working with each of the other Defendants.

14 6. At all applicable times, Defendants ESSWEIN, DIEZ, FOSTER, EPSTEIN, HOLM and DOES  
15 11-80 were acting in the course and scope of their employment as peace officers with the  
16 COUNTY OF LOS ANGELES' Sheriff's Department. The acts, omissions and conduct of  
17 Defendants ESSWEIN, DIEZ, FOSTER, EPSTEIN, HOLM and DOES 11-80 were authorized,  
18 ratified and/or approved of by each of the other Defendants herein.

19 7. The true names or capacities, whether individual, corporate, associate, or otherwise of Defendants  
20 Does 1 - 80, inclusive, are unknown to Plaintiff, who therefore sues these Defendants by such  
21 fictitious names pursuant to *Code of Civil Procedure* section 474. Plaintiff will amend this  
22 complaint to allege their true names and capacities when ascertained.

23 8. Plaintiff is informed and believes and thereon alleges that each of these Defendants engaged in  
24 intentional, reckless, or grossly negligent conduct, and are responsible in some manner for the  
25 occurrences herein alleged, and that Plaintiffs' damages as herein alleged were directly and legally  
26 caused by the wrongful conduct of Defendants and each of them.

27 9. The Defendants (including all DOE defendants), in carrying out the acts complained of herein,  
28 were acting in the course and scope of their employment with the County, or as the employer,

1 employee, principal, co-conspirator, and/or the agent of each of the other defendants, and/or in  
2 concert with the other defendants, and/or in partnership with the other defendants (including all  
3 DOE defendants), and/or as a joint venturer with the other defendants.

4 10. Defendants ESSWEIN, DIEZ, FOSTER, EPSTEIN, HOLM and DOES 11-80 were SHERIFF'S  
5 deputies, hired and employed by Defendant COUNTY OF LOS ANGELES and/or the County's  
6 Sheriff's Department and were at all relevant times acting as Sheriff's deputies for the COUNTY  
7 OF LOS ANGELES and its Sheriff's Department. All events relative to this lawsuit occurred in  
8 the City of Lancaster, County of Los Angeles.

9 11. Plaintiff's claims are authorized by *Government Code* section 815.2 which provides in pertinent  
10 part:

11 "A public entity is liable for injury proximately caused by an act or omission of an  
12 employee of the public entity within the scope of his employment if the act or omission would,  
13 apart from this section, have given rise to a cause of action against that employee or his personal  
14 representative."

15 12. The actions of Defendants COUNTY, DOES 1-10, Defendants ESSWEIN, DIEZ, FOSTER,  
16 EPSTEIN, HOLM and DOES 11-80 were carried out under color of authority and the  
17 COUNTY'S deputies were acting within the course of their employment at the time of the events  
18 described herein.

19 13. Reference to actions or conduct of "Defendants" shall include the singular and plural, and shall  
20 include all defendants in this action, whether named or designated as a DOE. Reference to any  
21 singular defendant shall include all DOE defendants to which the facts are later shown to apply.

22 14. Each principal Defendant and/or Defendant employer herein had advance knowledge, warning of  
23 unfitness of each Defendant agent, and/or employee, and employed or continued to employ each  
24 such agent and/or employee with a conscious disregard for the rights or safety of Plaintiff and  
25 others and/or otherwise authorized and ratified the wrongful conduct of each such agent and/or  
26 employee.

27 15. Plaintiffs have complied with all applicable claims statutes or are excused from complying  
28 therewith.



1 16. On August 2, 2011, Plaintiff MARCO CHICLANA timely filed a Governmental Claim. A true  
2 and correct copy of the Claim is attached hereto as exhibit "1" and incorporated by this reference.  
3 On August 15, 2011, Plaintiffs IBARRA DE LEON and MARIA CHICLANA timely filed a  
4 Government Claim. A true and correct copy of the Claim is attached hereto as exhibit "2" and  
5 incorporated by this reference.  
6 17. On September 13, 2011, Brian T. Chu, Principal Deputy County Counsel for the COUNTY OF  
7 LOS ANGELES advised that Plaintiffs' government claims had been rejected. A true and correct  
8 copy of the Government Claim Rejections from THE COUNTY OF LOS ANGELES postmarked  
9 September 13, 2011 are attached hereto as exhibits "3," "4," "5," & "6" and incorporated by this  
10 reference. On October 31, 2011, all three plaintiffs filed a supplemental Government Claim  
11 Form, true and correct copy of which is attached hereto as exhibit "7" and incorporated by this  
12 reference.

13 **FACTS APPLICABLE TO ALL CLAIMS**

14 18. Plaintiff repeats and realleges paragraphs 1 - 17, as though fully set out herein.  
15 19. On or about April 2, 2011, MARCO's father (and Maria's husband), Damaso, was recovering from  
16 open heart surgery at Antelope Valley Hospital. As a result, Damaso was heavily medicated.  
17 20. Family friends and relatives, including the plaintiffs, visited Damaso at the hospital.  
18 21. However, in his medicated state, Damaso demanded to leave the hospital against doctor's wishes.  
19 Ibarra and Maria tried to persuade Damaso to stay but to no avail. Hospital staff members  
20 discharged Damaso.  
21 22. MARCO was alerted that his father was leaving the hospital.  
22 23. When MARCO and his wife arrived at the hospital, MARCO tried to persuade Damaso to return to  
23 the hospital.  
24 24. MARCO and his family sought assistance from hospital security, who told them to call 911. Thus,  
25 911 was called.  
26 25. Soon thereafter, Sheriff Deputy ESSWEIN arrive at the scene. Initially, ESSWEIN approached  
27 Ibarra and Damaso, inquiring what was going on.  
28 26. Ibarra explained the situation to ESSWEIN and explained that Damaso needed to return to the

1 hospital.

2 27. Then, MARCO approached ESSWEIN and began speaking to him. At one point, MARCO and  
3 ESSWEIN shook hands.

4 28. For no apparent reason, ESSWEIN asked MARCO whether he had any outstanding warrants.  
5 Next, ESSWEIN told MARCO to take his hands out of his pockets and asked him whether he had  
6 any weapons in his pocket. MARCO did not have any weapons. Nevertheless, ESSWEIN ordered  
7 MARCO to put his hands on the car. MARCO followed the order, yet ESSWEIN roughly pushed  
8 him against the car.

9 29. MARCO asked ESSWEIN why he was being arrested. ESSWEIN told MARCO to stop resisting.  
10 MARCO was not resisting. Defendant, LASD has trained its officers, and created a custom and  
11 practice of saying "stop resisting" or "stop fighting" to cover up their unjustified use of force on  
12 innocent members of the public (or inmates in jail).

13 30. The ACLU and Department of Justice are investigating the Sheriff's Department, particularly in  
14 the Antelope Valley, for their unjustified uses of force, particularly on African Americans and  
15 Latin Americans. The Plaintiffs are all Latin. (Similar findings by the ACLU have shown that  
16 Deputies would say stop fighting or stop resisting when they were about to beat a suspect, without  
17 justification to cover up their violation of a person's civil rights.)

18 31. After ESSWEIN'S statement of "stop resisting" MARCO again asked ESSWEIN why he was  
19 being arrested and leaned his head back toward ESSWEIN while speaking to him. Suddenly,  
20 without provocation or any justification, ESSWEIN grabbed MARCO by the collar area and pulled  
21 him back. Then, ESSWEIN punched MARCO in the face.

22 32. MARCO tried to cover up and avoid further blows. But then DIEZ arrived and placed MARCO in  
23 a carotid restraint.

24 33. Soon thereafter, numerous deputies arrived and began beating up MARCO.

25 34. MARCO was repeatedly struck by hands, fists, knees, batons, billy clubs and/or flashlights.  
26 Moreover, FOSTER utilized his taser on MARCO multiple times. HOLM repeatedly struck  
27 MARCO with his flashlight. Meanwhile, EPSTEIN repeatedly punched MARCO. None of these  
28 actions by the defendants were justified. All were excessive.

1 35. Defendants unlawfully arrested MARCO without probable cause to do so and used excessive force.  
2 Defendants celebrated the injuries they inflicted upon MARCO. Based on information and belief,  
3 defendants took photos of the injuries they inflicted on MARCO, with their cell phones, and then  
4 texted the pictures to friends. The LASD has many deputies that celebrate when they beat a  
5 person, and cause their heads to swell. The suspect is referred to as a "pumpkin head."

6 36. Moreover, in an effort to intimidate and keep witnesses silent, Defendants falsely arrested Damaso.  
7 Similarly, Defendants obtained fraudulent arrest warrants for Ibarra and Maria.

8 37. However, Ibarra and Maria, who suffers from dementia, were simply at the scene and did  
9 absolutely nothing wrong. Damaso was treated so roughly that his wounds from his bypass surgery  
10 were opened up, and he bled so profusely that he required a blood transfusion at Los Angeles  
11 County Medical Center. Damaso was detained for five days and not allowed visitation by his  
12 friends or family. He was while detained, denied the opportunity for bail, and the opportunity for  
13 a timely arraignment.

14 **FIRST CAUSE OF ACTION**  
15 **FOR ASSAULT AND CIVIL BATTERY BY PLAINTIFF MARCO CHICLANA**  
16 **AGAINST ALL DEFENDANTS**

17 38. Plaintiff repeats and re-alleges paragraphs 1-37, as though fully set out herein.

18 39. As alleged in detail herein, on or about April 2, 2011, Defendants ESSWEIN, DIEZ, FOSTER,  
19 EPSTEIN, HOLM and DOES 11-80, physically touched, restrained and handcuffed Plaintiff and  
20 then beat him with their fists, knees, batons, tasers, and/or flashlights. These intentional acts were  
21 harmful and offensive to Plaintiff MARCO CHICLANA who did not consent to them

22 40. The conduct of Defendant Sheriff's Deputies directly and legally caused Plaintiff severe injuries  
23 and required that MARCO be brought to a hospital for medical attention and treatment.

24 41. Plaintiff MARCO Chiclana was injured in his health, strength, vitality and activity, and sustained  
25 injuries to his body and mind by Defendants' assault and battery upon him. Plaintiff suffered  
26 further non economic damages to be proven at time of trial.

27 42. As a further proximate result of the acts or omissions of the aforesaid Defendants as herein  
28 alleged, MARCO CHICLANA has sustained pecuniary damages in the form of medical, hospital

1 and therapist's expenses incurred. The compensatory damages sought are in an amount in excess of  
2 the minimum jurisdiction of the Court and subject to proof at trial.

3 43. As a still further legal result of the conduct, acts, or omissions on the part of the Defendants,  
4 Plaintiff has sustained pecuniary damages resulting from loss of income, employment and  
5 employment opportunities Plaintiff could have reasonably been expected to receive had he not  
6 been assaulted and battered and loss of future income as well as attorneys fees, litigation costs, bail  
7 costs and such other economic damages as proven at trial..

8 44. Because the acts and omissions of Defendants and Does 11-80, inclusive as described above were  
9 carried out in a deliberate, cold, callous, intentional and/or despicable manner, causing injury and  
10 damage to Plaintiff as set forth above, and done with a conscious disregard of Plaintiff's rights and  
11 safety, Plaintiff request the assessment of punitive damages against all Defendants except the

12 County in an amount appropriate to punish or set an example of these Defendants. Due to  
13 applicable law, no punitive damages are sought against Defendant COUNTY OF LOS ANGELES.

14 45. Defendant County is vicariously responsible for the acts of its employees, the individually named  
15 and Doe defendants herein who were acting in the course and scope of their employment when  
16 they caused the injury and damages to Plaintiff.

17 **SECOND CAUSE OF ACTION**

18 **FOR INTENTION INFLICTION OF EMOTIONAL DISTRESS**

19 **BY PLAINTIFFS MARCO CHICLANA & MARIA CHICLANA**

20 **AGAINST ALL DEFENDANTS**

21 46. Plaintiffs repeat and re-allege each and every allegation set forth above contained in paragraphs 1  
22 through 45 as though set forth fully herein.

23 47. The Defendant SHERIFF'S DEPUTIES' actions as set forth herein occurred during the course  
24 and scope of their employment for the COUNTY OF LOS ANGELES, through the LASD, and  
25 were both intentional and malicious. The conduct of defendants ESSWEIN, DIEZ, FOSTER,  
26 EPSTEIN, HOLM and Does 11-80, and each of them was willful, wanton, oppressive, fraudulent,  
27 despicable, threatening, evil, intimidating and beyond that which should be tolerated by a civilized  
28 society. The acts of these Defendants were carried out with a conscious disregard of the likelihood

1 of causing injury, suffering, or distress to Plaintiffs, and involved reckless and callous indifference  
2 to the state and federally protected rights of others. Therefore punitive damages in a sum  
3 according to proof, consistent with the net worth of these Defendants and in a sum sufficient to  
4 deter similar such conduct in the future is also sought against all individual and non municipal  
5 defendants.

6 48. As a legal result of such intentional misconduct, exhibited by COUNTY'S SHERIFF'S  
7 DEPUTIES ESSWEIN, DIEZ, FOSTER, EPSTEIN, HOLM and Does 11-80, Plaintiff sustained  
8 injuries and damages in a sum to be ascertained according to proof. As a further legal result of  
9 Defendants' intentional misconduct, Plaintiff suffered and continues to suffer severe anxiety,  
10 worry, emotional distress, and mental anguish, all resulting in damages in a sum to be ascertained  
11 according to proof.

12 49. As a further legal result of such misconduct, Plaintiff(s) incurred expenses for medicines, medical  
13 treatment, therapy, and/or other related expenses , attorneys fees, litigation costs and other general  
14 ans special damages in a sum to be ascertained according to proof.

15 50. As a further legal result of Defendants' intentional misconduct, Plaintiff(s) suffered incidental and  
16 consequential damages in an amount according to proof.

17 51. Because the acts and omissions of SHERIFF'S DEPUTIES ESSWEIN, DIEZ, FOSTER,  
18 EPSTEIN, HOLM and Does 11-80, inclusive, were carried out in a deliberate, cold, callous,  
19 intentional and/or unreasonable manner, causing injury and damage to Plaintiff as set forth above,  
20 and done with a conscious disregard of Plaintiff's rights and safety, Plaintiff requests the  
21 assessment of punitive damages against said Defendants, in an amount appropriate to punish or set  
22 an example of said Defendants.

23 **THIRD CAUSE OF ACTION**

24 **FOR FALSE ARREST AND FALSE IMPRISONMENT**

25 **BY ALL PLAINTIFFS AGAINST ALL DEFENDANTS**

26 52. Plaintiffs repeat, re-allege and incorporate every allegation set forth above in paragraphs 1-52  
27 inclusive as though set forth verbatim herein.

28 53. On or about April 2, 2011, Defendants ESSWEIN, DIEZ, FOSTER, EPSTEIN, HOLM and Does

1 11-80, inclusive, and each of them, in addition to beating Plaintiff MARCO, caused the unlawful  
2 detention, false arrest and false imprisonment of Plaintiff MARCO CHICLANA without probable  
3 cause, without reasonable suspicion, without a warrant and on trumped up charges manufactured to  
4 cover the beating given to Plaintiff by these deputies.

5 54. Similarly, in April 2011, the DOE and named Defendants intentionally caused Plaintiffs IBARRA  
6 DE LEON and MARIA CHICLANA to be wrongfully arrested. Based on information and belief,  
7 Doe Defendants procured arrest warrants for IBARRA and MARIA, without probable cause, by  
8 providing false and/or materially incomplete information in the respective arrest warrant affidavits.

9 55. Defendants and each of them, knew that Plaintiffs had not engaged in any criminal wrongdoing.  
10 As a direct and proximate result of this despicable conduct exhibited by Sheriff's Deputies  
11 ESSWEIN, DIEZ, FOSTER, EPSTEIN, HOLM and Does 11-80 in the course and scope of their  
12 employment as Sheriff's Deputies for the COUNTY OF LOS ANGELES, MARCO CHICLANA,  
13 was incarcerated, kept in jail, and caused to endure pain and discomfort, embarrassment and  
14 humiliation, emotional distress, monetary damages, present and future. Similarly, as a direct and  
15 proximate result of this despicable conduct exhibited by Sheriff's Deputies DOE and Does 11-80  
16 in the course and scope of their employment as Sheriff's Deputies for the COUNTY OF LOS  
17 ANGELES, IBARRA DE LEON and MARIA CHICLANA were wrongfully arrested and caused  
18 discomfort, embarrassment and humiliation, emotional distress, monetary damages, present and  
19 future. Each of the plaintiffs' civil rights under State and Federal Law were violated.

20 56. As a further proximate result of the acts or omissions of the aforesaid Defendants as herein alleged,  
21 MARCO CHICLANA, IBARRA DE LEON, and MARIA CHICLANA have sustained pecuniary  
22 damages resulting from the need to procure payment of bail, and to secure legal representation to  
23 clear their names. Plaintiffs have suffered further general and special damages according to proof  
24 at trial.

25 57. Because the acts and omissions of Defendants ESSWEIN, DIEZ, FOSTER, EPSTEIN, HOLM  
26 and Does 11-80, inclusive as described above were carried out in a deliberate, cold, callous,  
27 intentional and/or unreasonable manner, causing injury and damage to Plaintiffs as set forth above,  
28 and done with a conscious disregard of Plaintiffs' rights and safety, Plaintiffs request the

1 assessment of punitive damages against these Defendants in an amount appropriate to punish or set  
2 an example of these Defendants.

3 **FOURTH CAUSE OF ACTION**

4 **FOR MALICIOUS PROSECUTION**

5 **BY IBARRA DE LEON & MARIA CHICLANA**

6 **AGAINST ALL DEFENDANT DOES**

7 58. Plaintiffs repeat, re-allege and incorporate every allegation set forth above in paragraphs 1-57  
8 inclusive as though set forth verbatim herein.

9 59. Defendant DOEs caused criminal proceedings to be instituted against Plaintiffs DE LEON &  
10 MARIA CHICLANA by falsely alleging that Plaintiffs interfered, obstructed, resisted, and/or  
11 harmed peace officers in the lawful exercise of their duties.

12 60. Without probable cause and with malice, Defendant DOEs procured arrest warrants against  
13 plaintiffs by providing knowingly false information in arrest warrant affidavits. As a result,  
14 Plaintiffs were arrested and criminal charges filed. The Los Angeles County District Attorney did  
15 not exercise independent judgment when filing criminal charges against DE LEON and MARIA  
16 CHICLANA. Defendant DOEs made material omissions and provided false information to the  
17 District Attorney.

18 61. The criminal prosecution of the plaintiffs ended in their favor. A superior court judge dismissed  
19 the charges against DE LEON and MARIA CHICLANA's criminal case similarly ended in her  
20 favor, but not until after both plaintiffs suffered economic and non-economic damages as a direct  
21 and legal result of the defendants actions.

22 62. No reasonable person under the circumstances would have believed that there were grounds for  
23 causing the plaintiffs to be arrested or prosecuted. A videotape of the April 2, 2011 incident clearly  
24 shows that the Plaintiffs did nothing wrong and violated no laws. Thus, defendants' malicious  
25 prosecution was in violation of state and federal laws, including without limitation, 42 USC §  
26 1983.

27 63. Defendant DOEs conduct were motivated by a malicious desire to deny Plaintiffs equal protection  
28 under the law and deny them specific constitutional rights, including but not limited to those under

1 the First, Fourth, Fifth, Eighth, Thirteenth and Fourteenth Amendments.

2 64. The plaintiffs were harmed. The plaintiffs incurred attorneys fees and costs, plaintiffs lost  
3 employment and/or employment opportunities, they suffered emotional distress and had other  
4 general and special damages according to proof at time of trial.

5 65. Defendants conduct was a substantial factor in causing the plaintiffs harm.

6 66. The actions of Defendant DOEs were malicious, oppressive and fraudulent, carried out with a  
7 conscious disregard for the rights, health and safety of the plaintiffs. Consequently, Defendant  
8 DOEs, in their individual capacities only, are subject to punitive damages in a sum according to  
9 proof at time of trial and sufficient to deter such actions in the future.

10  
11 **FIFTH CAUSE OF ACTION**

12 **FOR VIOLATION OF CALIFORNIA CIVIL CODE**

13 **SECTION 52.1 (BANE ACT) AND OTHER CIVIL RIGHTS VIOLATIONS.**

14 **BY ALL PLAINTIFFS AGAINST ALL DEFENDANTS**

15 67. Plaintiffs repeat and reallege paragraphs 1 through 66, as though fully set out herein.

16 68. As set forth in *Civil Code* §52.1(b) "Any individual whose exercise or enjoyment of rights secured  
17 by the Constitution or laws of the United States, or of rights secured by the Constitution or law of  
18 this state, has been interfered with, or attempted to be interfered with, as described in subdivision  
19 (a) may institute and prosecute in his or her own name and on his or her own behalf a civil action  
20 for damages including, but not limited to, damages under Section 52, injunctive relief, and other  
21 appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights  
22 secured." Plaintiffs bring this cause of action based upon Defendants' violation of their rights of  
23 liberty, freedom of expression, to be free of unreasonable searches and seizures, right of  
24 association, and right to petition, all of which are secured by the Constitution and for the  
25 defendants violations of other constitutional and statutory laws of the State of California and the  
26 Untied States, and all of which were interfered with by Defendants' conduct as set forth herein.

27 69. *Civil Code Section* 52.1(g) states "An action brought pursuant to this section is independent of any  
28 other action, remedy, or procedure that may be available to an aggrieved individual under any



1 other provision of law, including, but not limited to, an action, remedy, or procedure brought  
2 pursuant to Section 51.7.” 42 USC § 1983 has similar prohibitions.

3 70. The conduct of Defendants in striking MARCO CHICLANA and unlawfully arresting all of the  
4 Plaintiffs, in the use of unnecessary and clearly excessive force against MARCO CHICLANA , the  
5 manufacturing of false evidence against Plaintiffs and causing them to be incarcerated and/or  
6 prosecuted is all in violation of *Civil Code Section 52.1*, and plaintiffs’ civil rights, and violates  
7 other laws of he State of California and the United States and is actionable as such.

8 71. During all times mentioned herein, Defendants and each of them, acted separately and in concert,  
9 under color and pretense of law, under color of statute, ordinance, regulations, SHERIFF’S,  
10 practices, customs and usages of Defendant COUNTY , the County of Los Angeles Sheriff’s  
11 Department, and Does 1-80, inclusive, and each of them, to engage in the conduct herein  
12 mentioned and deprived Plaintiff of his rights and privileges secured to him by the First, Fourth,  
13 Eighth and Fourteenth Amendments of the Constitution of the United States and laws of the  
14 United States.

15 72. Defendants’ conduct in violation of Plaintiffs’ rights under Civil Code Sections 51 and 52.1,  
16 and other laws of the State of California and the United States, proximately and legally caused  
17 damages to Plaintiffs, including, but not limited to: pain, suffering, scarring, emotional distress,  
18 anger, fear, trepidation and chagrin, loss of earnings, loss of earnings opportunities, loss of future  
19 earnings, loss of employment benefits, loss of wages, loss of opportunities to find other  
20 employment, past, present and/or future medical, psychological, psychiatric and/or hospital bills  
21 and expenses for treatment and other economic and non-economic damages according to proof.

22 73. Plaintiffs request that the statutorily prescribed civil penalty of Twenty-Five Thousand Dollars  
23 (\$25,000) per violation, per plaintiff, against each defendants pursuant to Civil Code §52.1(a) and  
24 other applicable civil rights laws, be imposed on each Defendant and/or DOE DEFENDANT.

25 74. Plaintiffs are also entitled to attorneys fees pursuant to State and Federal Civil Rights Statutes  
26 that apply to this case, including without limitation §52.1(h) (“In addition to any damages,  
27 injunction, or other equitable relief awarded in an action brought pursuant to subdivision (b), the  
28 court may award the petitioner or plaintiff reasonable attorney’s fees.”)

1 WHEREFORE, Plaintiffs pray for the following:

- 2 1. Compensation for both economic and non economic damages suffered and to be suffered;
- 3 2. Medical, hospital, ambulance, legal and other expenses incurred by Plaintiffs;
- 4 3. Compensatory damages and nominal damages caused by deprivation of Plaintiffs'
- 5 constitutional rights;
- 6 4. Litigation costs;
- 7 5. Attorneys' fees, as allowed by statute;
- 8 6. Interest;
- 9 7. Civil Penalties as allowed by law.
- 10 8. Punitive damages (against the non-municipal Defendants only);
- 11 9. Any other relief or damages allowed by law, or statutes not set out above, and such further
- 12 relief as this Court deems just and proper at conclusion of trial.

13  
14 Dated: November 28, 2011

Respectfully Submitted,  
LAW OFFICES OF GOLDBERG & GAGE  
A Partnership of Professional Law Corporations

15  
16  
17 By: 

Bradley C. Gage  
Milad Sadr

18 Attorneys for Plaintiffs,  
19 MARCO CHICLANA, IBARRA DE LEON, MARIA  
20 CHICLANA

21  
22 O:\C\CHICLANA-MARCO\PLEADINGS\COMPLAINT\FINAL\11-28-11 fin.wpd

**"Exhibit 4"**

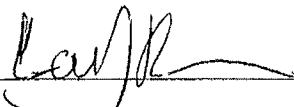
1 DECLARATION OF LOUIS BOZZO

2 I, Louis Bozzo , declare and state that I am a Mechanic for Southern California Material Handling.  
3 in Pico Rivera , CA on I was at the Antelope Valley Hospital on April 2, 2011. I have personal  
4 knowledge of the facts set out herein below. I am over 18 years of age and I am competent to provide this  
5 declaration. If called upon to do so, I could and would testify to the following facts:

- 6 1. My home address is 7000 Vicky Ave., West Hills, CA 91307
- 7 2. On April 2, 2011, I was at the hospital visiting Damaso, who I work with.
- 8 3. When I arrived, Marco’s father (Damaso) was confused from the medication he received at the  
9 hospital. He was loud. Marco was having difficulty speaking to his father, so I approached  
10 Damaso being his co worker in an effort to help relieve his confusion..
- 11 4. Damaso had two screw driver’s he was using to try and start a car, as he was confused about where  
12 he was and evidently thought the screw drivers were keys. I pulled the screw drivers out of  
13 Damaso’s hands.
- 14 5. After this, I was speaking with Damaso, and I heard Erica mention she was calling the Sheriff’s  
15 Department to assist the family in getting the confused father back into the hospital.
- 16 6. I saw the first deputy that showed up hit Marcos without any justification. I then saw other  
17 deputies swarm Marco like bees on honey. After the deputies swarmed Marco, they started to  
18 punch him without justification and dragged him to the ground.
- 19 7. Next, I saw several deputies get on top of Marcos. I did not see Marcos take any kind of  
20 aggressive action towards the deputies. Specifically, I never saw him hit, strike, punch, kick or  
21 otherwise attempt to cause injury to any of the deputies. Nevertheless, the deputies continued to  
22 strike, knee and hurt Marco after he was on the ground. I saw no justification for their actions.
- 23 8. When all was done, and Marcos was on a Gurney, Marcos’ face was red and completely covered  
24 with blood. I did not see an inch of skin that did not have blood on his face. The deputies did not  
25 appear injured. None of the deputies had any visible injuries that I could see.
- 26 9. After the beating, I spoke with the Deputies and told them that the son (Marco) was trying to get  
27 his father back into the hospital, and that I tried to step in , and the other information provided in  
28 this declaration.

1 10. I was shaken up by witnessing this severe beating. I even yelled out as the deputies were beating  
2 Marco, "what is this, Rodney King?" The hospital security then moved us towards the bench  
3 further from the incident.

4 I declare the foregoing is true and correct under the penalty of perjury under the laws of the State  
5 of California and the United States. Executed on February 3, 2012 in Woodland Hills, California. This is  
6 signed without coercion, threat or intimidation.

7  
8   
9 Louis Bozzo , Declarant

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**"Exhibit 5"**

1 Bradley C. Gage, Esq. S.B. No 117808  
2 Milad Sadr, Esq. S.B. No 245080  
3 **LAW OFFICES OF GOLDBERG & GAGE**  
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8 Attorneys for Plaintiff  
9 MARK MOFFETT

**CONFORMED COPY  
OF ORIGINAL FILED**  
Los Angeles Superior Court

SEP 13 2010

John A. Clarke, Executive Officer/Clerk  
By SHAUNYA WESLEY, Deputy

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF LOS ANGELES**

11 MARK MOFFETT,

12 Plaintiff,

13 v.

14 COUNTY OF LOS ANGELES; TIMOTHY  
15 COOPER IN HIS INDIVIDUAL CAPACITY  
16 AND AS A SERGEANT WITH THE LOS  
17 ANGELES COUNTY SHERIFF'S  
18 DEPARTMENT ; and DOES 1-100, inclusive,

19 Defendants.

CASE NO:

BC 445403

**COMPLAINT FOR DAMAGES; DEMAND FOR  
JURY TRIAL; AND STATEMENT OF  
DAMAGES**

1. FEHA Harassment [Hostile Work Environment]
2. FEHA Discrimination
3. FEHA Retaliation
4. Failure to Take Corrective Action
5. Whistle Blower Retaliation.
6. Violation of the Ralph & Bane Acts
7. Violation of Peace Officers' Bill of Rights [Government Code Section 3309.5, et seq.]
8. Intentional Infliction of Emotional Distress.
9. Negligence
10. Assault and Battery.

22 **GENERAL ALLEGATIONS**

23 COMES NOW Mark Moffett (hereafter sometimes "Plaintiff") who demands a jury trial, and  
24 seeks monetary compensation against all of the Defendants, as follows:

- 25 1. Plaintiff Mark Moffett was at all times herein, a resident of the State of California, and an  
26 employee of the COUNTY OF LOS ANGELES, and DOES 1 - 40 (hereinafter collectively  
27 "DEFENDANTS").

- 1 2. Defendants TIMOTHY COOPER IN HIS INDIVIDUAL CAPACITY AND AS A SERGEANT  
2 WITH THE LOS ANGELES COUNTY SHERIFF'S DEPARTMENT , and Does 41-70, and each  
3 of them (hereinafter collectively referred to as "Defendants" or "COOPER") were employees,  
4 supervisors, managers, agents, joint venturers, directors, principals, or otherwise employed by or  
5 working with each of the other Defendants. The acts, omissions and conduct of COUNTY OF  
6 LOS ANGELES and Does 41-70 were authorized, ratified and/or approved of by each of the other  
7 Defendants herein.
- 8 3. The true names or capacities, whether individual, corporate, associate, or otherwise of Defendants  
9 Does 1 through 100, inclusive, are unknown to Plaintiff Moffett, who therefore sues these  
10 Defendants by such fictitious names pursuant to California Civil Procedure Code Section 474.  
11 Plaintiff Moffett will amend this complaint to allege their true names and capacities when  
12 ascertained.
- 13 4. Plaintiff Moffett is informed and believes and thereon alleges that each of these fictitiously named  
14 Defendants engaged in intentional, reckless, or negligent conduct, and are responsible in some  
15 manner for the occurrences herein alleged, and that Plaintiff Moffett's damages as herein alleged  
16 were directly and legally (proximately) caused by Defendants' conduct.
- 17 5. Each of the Defendants (including all Doe Defendants), in carrying out the acts complained of  
18 herein, were acting in the course and scope of his, her, their, or its employment and as the  
19 employer, employee, principal, co-conspirator, and/or the agent of each of the other Defendants  
20 and/or in concert with the other Defendants and/or in partnership with the other Defendants  
21 (including all Doe Defendants), and/or as a joint venturer with the other Defendants.
- 22 6. Reference to actions or conduct of "Defendants and each of them" or to "Defendant" shall include  
23 the singular and plural and shall include all Defendants in this action, whether named or  
24 designated as a Doe. Reference to any singular Defendant shall include all Doe Defendants to  
25 which the facts later are shown to apply.
- 26 7. Plaintiff Moffett has exhausted all of his administrative remedies. Plaintiff Moffett has filed Two  
27 Governmental Claims (an original and an Amended Claim.) The claims were neither rejected or  
28



1 accepted and thus are rejected by operation of law. True and correct copies of those complaints  
2 are attached hereto as exhibits "1" and "2" and incorporated by this reference as though fully set  
3 out herein.

4 8. On or about May 6, 2010, FEHA claims were filed with the Department of Fair Employment and  
5 Housing (DFEH). True and correct copies of the DFEH complaints are attached hereto as Exhibit  
6 "3", and incorporated herein by this reference.

7 9. Plaintiff Moffett received Notices of Right to Sue in a California Superior Court pursuant to  
8 California Government Code Section 12965(b). True and correct copies of said letter is attached  
9 hereto as Exhibit "4" and is incorporated herein by this reference. Moffett has therefore exhausted  
10 his administrative remedies.

11 **FACTS APPLICABLE TO ALL CLAIMS:**

12 10. Moffett is Filipino, Native American ("American Indian") and Caucasian.

13 11. Moffett joined the Los Angeles County Sheriff's Department on October 20, 1989.

14 12. Throughout his career at various points, he was subjected to racial slurs. Racial slurs that plaintiff  
15 heard and he was offended by included but are not limited to the following:

16 Nigger

17 Spic

18 Wet backs

19 Chinks

20 Gooks

21 Rice Eater

22 Jeepney Driver

23 Charlie

24 Coconut tree climber

25 Mutt

26 Mexican Whore

27 "They" (when related to an Asian)

1 Don't even know what the hell he is.

2 Hey, what are you?

3 Fag

4 Faggot

5 Various other racial slurs.

6 13. The racial slurs were unwanted, unwelcome and offensive to plaintiff.

7 14. The Sheriff's Department has a history of making racial slurs, and that exists in many different  
8 stations. There has been other testimony notifying the defendants of the racial slurs, giving them  
9 notice and knowledge of the slurs, and thus triggering a requirement for the defendants to take  
10 corrective action and eliminate the slurs, but defendants have failed to take proper or necessary  
11 corrective action to eliminate those slurs.

12 15. Between 1997 and 2003, Moffett worked at Lakewood Station under Captain Dave Fender.  
13 Fender was subjected to an Internal Affairs complaint, which was found against him for falsifying  
14 the shooting card used for qualification. Based on information and belief, he was demoted from  
15 Captain to Lieutenant because of the violation.

16 16. Fender further was accused of sexual harassment of Maricuriz Perez, a female deputy. Some of  
17 the harassment was personally witnessed by Moffett who was questioned by Internal Affairs about  
18 his observations. As a result of that investigation, both Perez and Fender received Official  
19 Reprimands - they were found guilty and received punishment.

20 17. By participating in the sexual harassment investigation, Moffett engaged in a "protected activity"  
21 under the Fair Employment and Housing Act ("FEHA.")

22 18. In retaliation for providing the Internal Affairs testimony, Moffett's promotion to Detective Bureau  
23 was denied. Fender promoted less qualified, less tenured employees ahead of Moffett. The  
24 employees who were promoted were not of Asian or Native American decent. Based on  
25 information and belief, everyone on the Paramount Special Assignment Team who applied for  
26 detective, was promoted except for the plaintiff. The reason that plaintiff was not promoted was  
27 based on discrimination (race and national origin) and retaliation for his protected activities.  
28

- 1 19. Between approximately November 2003 and August 2005, Deputy Moffett was picked to be on  
2 the Century CIT (Crime Impact Team.) At Century Station there were two well known groups  
3 called the “Vikings” and the “Regulators.” These groups were accused of racial overtones, and  
4 they were described by Chief Baca in another case as “a clique of deputies who had a Viking tattoo  
5 who identified themselves as Vikings.”
- 6 20. Based on information and belief, Baca further testified in another discrimination lawsuit against  
7 the Sheriff’s Department as follows: “The problem with derogatory groups whether they’re  
8 Vikings, Regulators, Cavemen, whatever they are, these are formed without the authorization of  
9 the department. Their members refer to themselves through their tattoos and through other forms  
10 of language... They call themselves the Regulators, they call themselves the Cavemen, they call  
11 themselves the Vikings, they call themselves the Little Devils, and one other was the Tazmanian  
12 Devils, all derogatory, all against policy. And they still go on. And they still refer to themselves  
13 in that fashion. Totally indefensible.”
- 14 21. Despite knowing of the existence of these unauthorized groups defendants have failed to take  
15 proper corrective action to eliminate the groups. It is easy for defendants to identify members of  
16 the group by looking at the tattoo’s on the bodies of deputies (usually an ankle or calf). However,  
17 defendants and each of them have failed to investigate or take proper corrective action to eliminate  
18 these groups who engage in discrimination, harassment and retaliation of those who are not in the  
19 group. Any “minority” that was tangentially part of the Vikings is given a tattoo different than the  
20 tattoos given to Caucasians, based on information and belief. Vikings have a history of racial  
21 animus, witness intimidation, extortion and retaliation against those who have made allegations  
22 against them. Additionally, a member of the Vikings was convicted of 2<sup>nd</sup> degree murder.  
23 Members of the Vikings and Regulators are basically racist clans that have discriminated against,  
24 harassed, extorted money from and retaliated against the plaintiff, causing him harm and injuries  
25 in a sum in excess of the minimum jurisdiction of this court. Defendants are aware of prior acts of  
26 racism and have paid money in other lawsuits based on information and belief, yet they have  
27 allowed these racist groups to flourish. On information and belief, the Kolts Commission asked the  
28

1 Sheriff's Department to open an Internal Affairs investigation, identify the Vikings and root them  
2 out. The Department took no action.

3 22. In the past, members of the Regulators and Vikings surrounded plaintiff in an elevator inside of  
4 Century Station and gave him a gang style beating while non-involved deputies watched. The  
5 individuals that beat plaintiff in an elevator at Century Station included Sean Burke, a Sergeant at  
6 the time, thus a supervisor, Timothy Cooper, a Deputy, Garrick Twedt, Dean Camarillo, Adan  
7 Torres. All of these individuals are Caucasian or Hispanic.

8 23. Timothy Cooper also pointed his loaded service weapon to the head of plaintiff numerous times  
9 while they were assigned to Century CIT. Cooper is Caucasian.

10 24. During a bicycle stop, in full uniform, Cooper abandoned plaintiff in the middle of South Los  
11 Angeles. Plaintiff was a passenger in a car driven by Cooper. A narcotic suspect was pulled over.  
12 Plaintiff exited the patrol car to detain the suspect. While the plaintiff was searching the suspect  
13 for weapons, Cooper drove away without reason, leaving plaintiff in a dangerous, life-threatening  
14 situation, which was contrary to established practice and procedure. Such actions were potentially  
15 deadly and were discriminatory because plaintiff was treated differently than other deputies who  
16 would have had back up. The conduct was also harassing since it interfered with the terms and  
17 conditions of employment. This disparate treatment was based in part on the race of Plaintiff -  
18 Asian and American Indian. That conduct also violated various civil rights rules such as the Bane  
19 Act and Ralph Act.

20 25. Additionally, Cooper ordered "slip a dick in me" while ordering from an Asian lady at a Chinese  
21 restaurant in order to mock her difficulty with the English language. Cooper also liked to play a  
22 game he called, "It's splash the nigger time." This was in front of plaintiff which was harassing as  
23 well.

24 26. Plaintiff was further subjected to disparate treatment from supervisors on the Appraisal of  
25 Promotability because of his race and national origin. Also, Plaintiff was threatened to be  
26 removed from the Century CIT because of a medical condition. Further, he was treated differently  
27 on work assignments, collateral duties, overtime, and commendations.  
28

- 1 27. Moffett was further subjected to harassment and discrimination with racial comments and  
2 disparate training. For example, Moffett was sent to remedial drivers training in order to play on  
3 the stereotype that Asians cannot drive. Moffett had no traffic collisions on his record to justify  
4 any such training.
- 5 28. Plaintiff engaged in another protected activity when he complained about the hostile work  
6 environment, and being sent to drivers training (because he was Asian - a stereotype). This  
7 complaint was to Sgt. Burke and Lt. Colton.
- 8 29. As retaliation for making the above complaints, plaintiff was "midnight transferred" in August  
9 2005 to Lakewood Station. The transfer was punitive and further delayed Moffett's promotion to  
10 sergeant. Also, the transfer was in violation of the Police Officers Bill of Rights.
- 11 30. Plaintiff then complained about this discriminatory and retaliatory transfer to several executives.  
12 The transfer delayed plaintiff's promotion to Sergeant. The transfer was based on a claim of poor  
13 productivity which was false. After plaintiff complained, there was no action taken.
- 14 31. After plaintiff complained, he was told by an executive around December 2005 to "stay calm" and  
15 "stop talking about it." He was told "WHEN you get promoted will depend on whether Dave  
16 [Fender] tells his personnel commander [Tom Angel] that he wants you next up or whatever...."
- 17 32. After plaintiff complained, a Commander further told him, "If I were you, I'd schedule a meeting  
18 with your resume. DOWNPLAY the roll up...."
- 19 33. Essentially, plaintiff was told not to file a complaint or he would be retaliated against, and his  
20 promotion delayed. By delaying his promotion Moffett was subjected to an adverse action - lack  
21 of money from a promotion. He suffered loss of earnings, loss of earnings opportunities and lost  
22 pension deposits. This was part of a continuing act of discrimination, harassment and retaliation.
- 23 34. Between August 2005 and July 2006, plaintiff was again at Lakewood Station. His supervisor was  
24 Captain Dave Fender. This is the same Captain who plaintiff provided Internal Affairs testimony  
25 about in the past regarding a sexual harassment claim. Not surprisingly, Fender continued his  
26 adverse treatment of plaintiff. Moffett was given an undesirable position and days off.
- 27 35. In March 2006, Moffett complained to Captain Kevin Goran and Captain Fender about  
28

1 discrimination, retaliation, Peace Officer's Rights violations and numerous policy violations.  
2 Again neither took any official action directly ignoring their mandated reporting obligations per  
3 the Department's Policy of Equality.

4 36. In retaliation for his various complaints, Moffett was denied his old coveted position - Special  
5 Assignment Officer. But normally, standard procedure is the employee goes back into his old  
6 coveted position. But Fender did not give him do this. Fender further advised plaintiff he would  
7 be the last to promote to Sergeant. This was a continuing act of discrimination, retaliation, and  
8 harassment.

9 37. When plaintiff complained, the defendants failed to initiate a POE, which is a violation of the  
10 department's policy. That policy was implemented to help prevent harassment, which defendants  
11 failed to do. Thus, there is a continuing failure on the part of defendants to eliminate  
12 discrimination, harassment and retaliation as required by law.

13 38. In July 2006, Deputy Moffett was finally promoted to Sergeant and was transferred to Compton  
14 Station where he worked until July, 2009. Moffett has been an outstanding employee and his  
15 productivity has been excellent throughout his career.

16 39. Compton Station has a history of discrimination, harassment and retaliation. Based on information  
17 and belief: African American Supervisors were referred to as Niggers. Detective Iberri told an  
18 African American Lieutenant that he knew the Lieutenant would not take action against a Black  
19 Sergeant "because he's black and you're black." Iberri refused to eat food cooked by black  
20 Deputies and used the N word. Several Sergeants at the station would use the N word, Gook, spic,  
21 Charlie and multiple other racial slurs at the Compton Station which were over heard by many  
22 employees. There were complaints about these slurs, but no corrective action was taken. Iberri  
23 was promoted to Sergeant after receiving multiple complaints for his use of racial slurs.

24 40. Deputy Sam Orozco was accused of beating African Americans because of their race, planting  
25 evidence on African-Americans, using the N word and other racial terms.

26 41. Sergeants Miller, Jaime and Skrnich admitted to using racial slurs at Compton Station and outside  
27 of the Compton Station with other Sheriff's Department employees.  
28

- 1 42. Deputy Timothy Cooper, despite pointing a gun at Moffett on a number of occasions, was  
2 promoted to Sergeant at Century Station.
- 3 43. On or about May 29, 2009, Sergeant Cooper threatened Moffett with a marked black and white  
4 Chevy Tahoe. He drove at Moffett in a threatening manner. Additionally, on this same day,  
5 Cooper again pointed his gun at Sergeant Moffett and made death threats. This time the incident  
6 was witnessed by another sergeant. A criminal investigation was instituted against Cooper with  
7 the District Attorney's Office. Plaintiff advised Internal Affairs that Cooper carried extra guns as  
8 "throw aways" to plant on suspects as well as his real fear of Cooper. Moffett asked Internal  
9 Affairs for a protective order. Internal Affairs took no action and refused Moffett a protective  
10 order stating, his information was irrelevant. Moffett had to travel to another County to seek a  
11 protective order, which he was ultimately granted.
- 12 44. Moreover, Moffett's witness to the above incident was threatened and/or intimidated.  
13 Additionally, Moffett began to receive threatening and intimidating phone calls from Cooper's  
14 close friends.
- 15 45. In retaliation for his complaints, Moffett has been ignored, ostracized and treated as an outcast.  
16 He was removed from the Advanced Surveillance and Protection Unit. He was removed from the  
17 Sherman Block Supervisory Leadership Institute and removed from the Emergency Operations  
18 Bureau, Incident Management Team #5, and transferred to a less desirable station farther from his  
19 home. Moffett was then relieved of duty. Each of these events is an adverse action and part of a  
20 continuing pattern of discrimination, harassment and retaliation that continues into a time frame  
21 less than one year from the date plaintiff filed his DFEH complaint.
- 22 46. Plaintiff was not allowed to return to duty until approximately May, 2010. When he applied to  
23 various jobs, he was denied them as part of a continuing pattern of discrimination, harassment and  
24 retaliation. Plaintiff was then transferred to Lomita Station - another adverse action.
- 25 47. As a direct and legal (proximate) result of the actions of defendants and each of them, plaintiff  
26 suffered general and special damages (economic and non-economic damages) in a sum according  
27 to proof and in excess of the minimum jurisdiction of this Court.  
28

1 48. Further, plaintiff has incurred or will incur attorneys fees, litigation costs, and potential increased  
2 tax liability by having all money paid in a lump sum, rather than over time, he has suffered loss of  
3 use of that money, lost interest and investment opportunities.

4 49. The conduct of Cooper, a Supervisor, was outrageous, despicable, and beyond the bounds tolerated  
5 by a civilized society. He thus should be subjected to punitive damages as an individual in a sum  
6 according to proof and sufficient to deter him from engaging in such conduct in the future. There  
7 are NO punitive damages sought against defendant County because it has statutory immunity.

8 **FIRST CAUSE OF ACTION FOR HARASSMENT**

9 **[HOSTILE WORK ENVIRONMENT]**

10 **AGAINST ALL DEFENDANTS**

11 50. Plaintiff Moffett repeats and realleges paragraphs 1 through 49, as though fully set out herein.

12 51. Plaintiff is a protected employee. Cal. Gov. Code Sections 12920, 12921.

13 52. Defendants and each of them are "employers" for harassment purposes. Cal. Gov. Code Section  
14 12940(j)(4)(A).

15 53. Defendants created a hostile work environment for plaintiff for the reasons noted above.

16 54. As a direct and legal result of the conduct by Defendants towards Plaintiff, Plaintiff Moffett has  
17 suffered with economic and non-economic damages in a sum according to proof at time of trial,  
18 and in excess of the minimum jurisdiction of this Court.

19 55. The conduct of Defendants and each of them was willful, wanton, oppressive, fraudulent,  
20 despicable, and beyond that which should be tolerated by a civilized society. The acts of  
21 Defendants and each of them were carried out with a conscious disregard of the likelihood of  
22 causing injury, suffering, or distress to Plaintiff Moffett, and therefore punitive damages in a sum  
23 according to proof, consistent with the net worth of all Defendants (except defendant County) and  
24 in a sum sufficient to deter similar such conduct in the future, is also sought against all individual  
25 and non-municipal Defendants. No punitive damages are sought against Defendant COUNTY.

26 ///

27 ///

28



1   **SECOND CAUSE OF ACTION FOR DISCRIMINATION**

2   **AGAINST DEFENDANT COUNTY ONLY**

3 56. Plaintiff Moffett repeats and realleges paragraphs 1 through 55, as though fully set out herein.

4 57. Plaintiff was treated differently because of his race, his national origin and his perceived  
5 disability. Defendants also failed to provide him with reasonable accommodation or to engage in  
6 the interactive process.

7 58. The LASD does not have any Filipinos ranked any higher than a sergeant. The Department does  
8 not properly represent Filipinos in any way whatsoever. The Department encourages the "good  
9 old boy network," polarizing all races rather than embracing the diversity amongst its' sworn  
10 members. Defendant COUNTY discriminated against Plaintiff Moffett by stripping him of his  
11 responsibilities, and providing him inferior job assignments as well as denying him well-deserved  
12 timely promotions.

13 59. As a direct and legal result of the conduct by Defendants towards Plaintiff, Plaintiff Moffett has  
14 suffered with economic and non-economic damages in a sum according to proof at time of trial,  
15 and in excess of the minimum jurisdiction of this Court.

16   **THIRD CAUSE OF ACTION FOR RETALIATION UNDER FEHA**

17   **AGAINST DEFENDANT COUNTY ONLY**

18 60. Plaintiff Moffett repeats and realleges paragraphs 1 - 59, as though fully set forth herein.

19 61. Retaliation based upon protected activity: Plaintiff Moffett was retaliated against and harassed in  
20 the manners set forth above, after opposing discriminatory practices and/or harassment by  
21 Defendants.

22 62. As a direct and legal result of the conduct by Defendants towards Plaintiff, Plaintiff Moffett has  
23 suffered with economic and non-economic damages in a sum according to proof at time of trial,  
24 and in excess of the minimum jurisdiction of this Court.

25   **FOURTH CAUSE OF ACTION FOR FAILURE TO TAKE CORRECTIVE ACTION**

26   **AGAINST DEFENDANT COUNTY OF LOS ANGELES ONLY**

27 63. Plaintiff Moffett repeats and realleges paragraphs 1 - 62, as though fully set forth herein.  
28

1 64. Defendant COUNTY had an obligation to take corrective action to prevent further harassment of  
2 Plaintiff Moffett, but failed to do so in violation of Cal. Gov. Code Sections 12940(k) and  
3 12940(j)(1). Defendants failed to conduct proper investigations, implement proper policies to  
4 prevent discrimination, harassment or retaliation, and failed to properly punish those who engaged  
5 in misconduct to deter further such actions in the future.

6 65. After Plaintiff Moffett **complained** about harassment, discrimination, and retaliation, Defendant  
7 COUNTY failed to take corrective action when Captain Goran, now a Commander and  
8 Commander Rhambo, now a Chief and Captain Fender, now a Commander ignored Plaintiff  
9 Moffett's complaints. Further, defendants were aware of FEHA violations independent of Moffett  
10 but failed to take proper corrective action.

11 ~~66. As a direct and legal result of the conduct by Defendants towards Plaintiff, Plaintiff Moffett has~~  
12 ~~suffered with economic and non-economic damages in a sum according to proof at time of trial,~~  
13 ~~and in excess of the minimum jurisdiction of this Court.~~

14 **FIFTH CAUSE OF ACTION FOR WHISTLE BLOWER RETALIATION**

15 **AGAINST DEFENDANT COUNTY OF LOS ANGELES ONLY**

16 67. Plaintiff Moffett repeats and realleges paragraphs 1 - 66, as though fully set forth herein.

17 68. Pursuant to various statutes including but not limited to *Labor Code* § 1102.5, if an employee  
18 complains of violations of law (including but not limited to discrimination, political coercion,  
19 harassment, etc.) they are protected and cannot be retaliated against.

20 69. While employed as a police officer for defendants plaintiff complained that he was being treated  
21 differently in the terms and conditions of his employment than Caucasian officers. Specifically,  
22 he complained that he was beaten, had a gun pulled on him, and was denied promotions among  
23 other wrongs. He complained about criminal acts and also discrimination. By making such a  
24 complaint to law enforcement, plaintiff complained about violations of laws and statutes,  
25 including without limitation the FEHA (*Gov. Code* § 12940, et seq.) And criminal statutes such as  
26 *Penal Code* § 245 and various other statutes about criminal threats, assault, battery, and witness  
27 intimidation.  
28

1 70. These violations of statutes, rules and laws was reported to law enforcement as set out in *Labor*  
2 *Code* § 1102.5. After Sgt. Moffett filed a formal complaints about violations of laws, including  
3 without limitation, discrimination, harassment and retaliation, he was retaliated against.

4 71. Thus, Defendants violated *Labor Code* § 1102.5 by their actions. Specifically plaintiff  
5 complained about a violation of a statute, rule or law for the public, to law enforcement.  
6 After plaintiff complained of such violations, he was retaliated against. He suffered  
7 damages, harm and injury as a direct and legal result thereof in a sum in excess of the minimum  
8 jurisdiction of this court as further set out above.

9 72. Because defendants engaged in retaliation in violation of the Whistle blower statutes, defendants  
10 must demonstrate by clear and convincing evidence, a legitimate reason for this conduct, which  
11 defendants cannot do.

12 73. The actions of defendants caused plaintiff harm and damages as set out further hereinabove.

13 **SIXTH CAUSE OF ACTION BY PLAINTIFF**

14 **AGAINST DEFENDANT COUNTY OF LOS ANGELES**

15 **FOR VIOLATIONS OF THE BANE ACT AND RALPH ACTS**

16 74. Plaintiff repeats and re-allege paragraphs 1-73 as though fully set out herein.

17 75. As shown above, by beating the plaintiff and pulling a gun on him, Sgt. Moffett was threatened  
18 because of racial issues which is in violation of the Government Code, Police Officers Bill of  
19 Rights, and Civil Rights enumerated in the Bane Act, Ralph Act and Unruh Act.

20 76. Defendant COUNTY has a pattern and practice of disparate treatment because of either race or  
21 national origin.

22 77. As a direct and legal consequence of defendants violation of plaintiff's civil rights set out in the  
23 Ralph Act, Bane Act, and similar statutes, he was harmed and injured, incurred legal fees,  
24 litigation costs, may incur medical care and treatment costs, lost earnings, earnings opportunities,  
25 pension benefits, and other benefits of employment, suffered with general damages and special  
26 damages in a sum according to proof and in excess of the minimum jurisdiction of this court.

27 ///

28

1 **SEVENTH CAUSE OF ACTION FOR VIOLATION OF THE PEACE OFFICERS'**

2 **BILL OF RIGHTS [CAL. GOV. CODE SECTION 3309.5]**

3 **AGAINST DEFENDANT COUNTY OF LOS ANGELES ONLY**

4 78. Plaintiff Moffett repeats and realleges paragraphs 1 - 49 and 75-77, as though fully set forth herein.

5 79. At all times herein, Plaintiff Moffett was a peace officer, as set forth under Cal. Penal Code  
6 Sections 830.1, *et seq.* Plaintiff Moffett filed complaints and grievances about treatment he  
7 received. He was subjected to a "midnight transfer" in violation of his Rights under the Peace  
8 Officer's Bill of Rights. He was subjected to an improper "interrogation" by a lieutenant and  
9 sergeant, as well as a beating in the elevator by Deputies, and other aspects of the Police Officer's  
10 Bill of Rights were not followed.

11 80. As a direct and legal result of the conduct by Defendants towards Plaintiff, Plaintiff Moffett has  
12 suffered with economic and non-economic damages in a sum according to proof at time of trial,  
13 and in excess of the minimum jurisdiction of this Court.

14 **EIGHTH CAUSE OF ACTION FOR**

15 **INTENTIONAL INFLECTION OF EMOTIONAL DISTRESS.**

16 **AGAINST DEFENDANT COOPER AND ALL APPLICABLE DOES ONLY**

17 81. Plaintiff Moffett repeats and realleges paragraphs 1 - 49 as though fully set forth herein

18 82. By threatening plaintiff with a gun, engaging in beatings, and making vulgar statements to and in  
19 front of plaintiff, the defendants engaged in conduct that was outrageous.

20 83. Defendants intended to cause plaintiff emotional distress or acted with reckless disregard of the  
21 probability that plaintiff would suffer emotional distress, knowing that plaintiff was present when  
22 the conduct occurred.

23 84. Plaintiff suffered severe emotional distress and defendant's conduct was a substantial factor in  
24 causing plaintiff severe emotional distress.

25 85. Plaintiff suffered harm and injuries, including but not limited to general and special damages in a  
26 sum to be determined at time of trial and in excess of the minimum jurisdiction of this court. He  
27 further is entitled to punitive damages against all defendants other than the County which has  
28

1 immunity because the actions of defendants were willful, outrageous, malicious, oppressive and/or  
2 fraudulent and carried out with a conscious disregard for the safety and health of plaintiff.

3 **NINTH CAUSE OF ACTION FOR NEGLIGENCE**

4 **AGAINST ALL DEFENDANTS.**

5 86. Plaintiff Moffett repeats and realleges paragraphs 1 - 49 and 82 - 85 as though fully set forth herein

6 87. Defendant County was negligent in the care, supervision, and training of its employees.

7 Defendants further failed to perform mandatory duties. The defendant violated various statutes,  
8 regulations and ordinances as well as criminal codes. Plaintiff was harmed and the County's  
9 failure to perform its duty was a substantial factor in causing the plaintiff's harm.

10 88. Additionally, on information and belief, the County had actual knowledge of the misconduct of its  
11 employees toward Plaintiff. Consequently, the County is vicariously liable.

12 89. The other defendants were negligent because they failed to use reasonable care to prevent harm to  
13 plaintiff. Plaintiff was injured and harmed by defendant's negligence which was a substantial  
14 factor in causing him harm and damages as set out herein.

15 **TENTH CAUSE OF ACTION FOR ASSAULT AND BATTERY**

16 **AGAINST ALL DEFENDANTS.**

17 90. Plaintiff Moffett repeats and realleges paragraphs 1 - 49 and 81 - 89 as though fully set forth herein

18 91. Defendant Cooper committed a battery on plaintiff. Defendant Cooper touched Plaintiff with the  
19 intent to harm or offend him - beating in the elevator. Plaintiff did not consent to the touching  
20 and he was harmed and offended by the actions. A reasonable person in plaintiff's situation would  
21 have been offended by the touching.

22 92. Further, Defendant Cooper intended to cause harmful or offensive conduct by the beating in the  
23 elevator and by brandishing a weapon and pointing it at plaintiff. Plaintiff reasonable believed that  
24 he was about to be touched in a harmful or offensive manner.

25 93. Further, plaintiff was threatened by Defendant Cooper that he would touch him in a harmful or  
26 offensive manner (including but not limited to shooting him, beating him and threatening to harm  
27 him with a motor vehicle) It reasonably appeared to plaintiff that Defendant Cooper was about to  
28

1 carry out his threat. Plaintiff did not consent to this conduct. Plaintiff was harmed, and the  
2 conduct of the defendants was a substantial factor in causing plaintiff harm.

3 94. The COUNTY is vicariously liable for Cooper's battery. Cooper's misconduct occurred while  
4 Cooper was on duty. Cooper's misconduct occurred while he was exercising his authority as a  
5 police officer.

6 95. Moreover, the COUNTY ratified COPPER's battery. The COUNTY had knowledge or had  
7 opportunity to learn of COOPER's misconduct. However, the COUNTY continued COOPER's  
8 employment and failed to take corrective action.

9 96. Plaintiff suffered harm and injuries, including but not limited to general and special damages in a  
10 sum to be determined at time of trial and in excess of the minimum jurisdiction of this court. He  
11 further is entitled to punitive damages against all defendants other than the County which has  
12 immunity because the actions of defendants were willful, outrageous, malicious, oppressive and/or  
13 fraudulent and carried out with a conscious disregard for the safety and health of plaintiff.

14 WHEREFORE, Plaintiff Moffett prays for the following:

- 15 1. Loss of earnings and back pay including any increased tax liability thereon;
- 16 2. Loss of future earnings, promotions, opportunities to promote, front pay and all other employment  
17 benefits, such as pension rights;
- 18 3. All other lost pension, insurance and other employment benefits;
- 19 4. Medical, hospital and psychological bills, including past, present and future bills;
- 20 5. General damages (pain, suffering, emotional distress and other non economic damages);
- 21 6. Litigation costs;
- 22 7. Attorneys' fees;
- 23 8. Punitive damages against the individual and non-municipal Defendants only;
- 24 9. Interest;

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27 ///

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1 10. Any other relief or damages allowed by law, or statutes not set out above and such further relief as  
2 the Court deems just and proper at conclusion of trial.

3 Dated: September 8, 2010

Respectfully Submitted  
LAW OFFICES OF GOLDBERG & GAGE  
A Partnership of Professional Law Corporations

5  
6 By   
Bradley C. Gage  
Milad Sadr  
Attorneys for Plaintiff

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**"Exhibit 6"**



latimes.com

## Sheriff moves to fire six deputies accused in beating

By Robert Faturechi

Los Angeles Times Staff Writer

7:43 PM PDT, March 22, 2011

The Los Angeles County Sheriff's Department has begun termination proceedings against six deputies who were part of what officials describe as an aggressive group that used ganglike hand signals to identify themselves and allegedly assaulted two fellow deputies at a Christmas party last year.

The firing of six deputies marks one of the largest disciplinary actions in the department's history, officials said.

The deputies worked on the third floor of Men's Central Jail, where they allegedly were part of a clique that had certain ganglike characteristics, including three-finger hand signs, representing the third floor.

Officials are looking at whether members of the group displayed hand signs before they allegedly assaulted deputies assigned elsewhere at the jail. Authorities said the group bonded while working together at the jail and that they are aware of no ties to outside street gangs.

The group's hand sign is said to be formed with outstretched pinky, ring and middle fingers, though it could vary, said Michael Gennaco, who heads up the sheriff's watchdog agency.

In addition to the termination proceedings against the six men, the department is considering reforms in jail assignments, such as more regular rotations to keep deputies from forming similar cliques.

Public records obtained by The Times show that deputies assigned to that floor of the jail had a higher number of use-of-force incidents against inmates during a recent four-year period than those assigned to any other floor at the downtown Los Angeles facility.

Records show that between 2006 and 2010, the third floor recorded 437 use-of-force incidents, with the next closest floors reporting 426 and 226.

Gennaco said the frequency of force on the third floor did not necessarily mean that the force there was excessive because the floor houses a "certain pedigree of inmates," largely those with more violent histories.

Whether the existence of a clique was known by sheriff's supervisors before this incident is being investigated.

The investigation into the men arose from a six-on-two assault that broke out last December outside a Montebello banquet hall where a Christmas party for jail employees was being hosted.

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The advertisement features a top banner with the iRobot logo and 'FREE Shipping' offer. Below this, the product name 'iRobot Vacuum Cleaning Robots' is prominently displayed, followed by the tagline 'Get Thorough Vacuuming With Less Effort.' The central image shows a top-down view of a circular robot vacuum with a 'CLEAN' button in the center. At the bottom, there are two call-to-action buttons: '30-DAY, MONEY-BACK GUARANTEE' on the left and 'SHOP NOW' on the right.

Throughout the night, deputies on the third floor were being hassled about moving inmates slowly at the jail. As the night wound down, one of the two deputies who was assaulted apparently called out to the group of six, again calling them slow.

The six deputies allegedly rushed that deputy and another standing nearby, and began punching and kicking them. A female deputy who tried to break up the assault was punched in the face. Gennaco said several of the men had been drinking.

Sheriff's spokesman Steve Whitmore declined to name the deputies, citing personnel constraints. A seventh deputy who was placed on leave after the incident was not fired because of insufficient evidence against him.

Whitmore said the investigation into the men was thorough and included 180 interviews. Prosecutors are reviewing possible criminal charges in connection with the incident. "The department chose not to wait for that," Gennaco said. "We have never seen this many deputies disciplined so severely in the 10 years we've been here over one incident. It's unprecedented."

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# ACLU Lawsuit Charges Los Angeles County Sheriff with Condoning Pattern of Deputy-on-Inmate Violence

January 18, 2012

**Complaint Alleges High-Level Staff Knew Gangs of Deputies Beat Inmates and Condoned Cover-Ups**

FOR IMMEDIATE RELEASE

CONTACT: (212) 549-2582 or 2666; [media@aclu.org](mailto:media@aclu.org)

LOS ANGELES -- Los Angeles County Sheriff Lee Baca and his top commanders condoned a long-standing, widespread pattern of violence by deputies against inmates in the county jails, the American Civil Liberties Union and the ACLU of Southern California (ACLU/SC) charge in a federal class-action lawsuit filed today.

The lawsuit was filed on behalf of two named plaintiffs, Alex Rosas and Jonathan Goodwin, who were savagely beaten and threatened with violence by deputies of the Los Angeles County Sheriff's Department (L.A.S.D.) while they were pretrial detainees in the jail. As detailed in the complaint, the treatment of Rosas and Goodwin is not isolated -- there are dozens of reports of similar brutality in the jails. The lawsuit seeks both injunctive and declaratory relief on behalf of all present and future inmates of the jails.

"Sheriff Lee Baca, Undersheriff Paul Tanaka, and Chief Dennis Burns are responsible for ensuring that their subordinates do not engage in a pattern of unspeakable acts of violence against inmates," said Peter Eliasberg, legal director of the ACLU/SC. "But in the face of a longstanding pattern of deputy abuse they have deliberately and knowingly failed to put in place the basic pieces of an accountability system -- sound policies on the use of force, adequate training, careful investigation of force incidents and a rigorous system of discipline. This suit is directed at them because they have allowed deputies to go unpunished, covered up their behavior and for years made no effort to reform this broken system."

Los Angeles County has the largest jail system in the nation, with an average population of 15,000 inmates. The lawsuit, filed in U.S. District Court for the Central District of California, charges that Baca and his command staff had full knowledge of this pattern of violence and sought to conceal it from the public. The suit alleges violations of the inmates' rights under the Eighth Amendment to the U.S. Constitution to be free of cruel and unusual punishment and pretrial detainees' rights under the Fourteenth Amendment's prohibition of punishment prior to conviction.

"A sick culture of deputy-on-inmate hyper-violence has been flourishing for decades in the darkness of the L.A. County Jails, and this lawsuit will continue to help expose that culture to the light of day," said Margaret Winter, associate director of the ACLU National Prison Project. "Because Sheriff Baca has recently taken an important first step -- publicly admitting there's an enormous problem and expressing his commitment to reform -- we hope the sheriff and the ACLU will be able to reach a court-ordered injunction that will bring about profound and far-reaching changes."

In September 2011, the ACLU issued a report documenting more than 70 recent cases of extreme deputy violence, and shortly thereafter the public learned the FBI had launched an expansive criminal probe into deputy-on-inmate violence in the county jails. In December 2011, the County Board of Supervisors convened a commission to investigate and make recommendations.

In addition to ACLU lawyers, a team of Paul Hastings attorneys led by Donna Melby and John Durrant will provide *pro bono* legal assistance to the plaintiffs in this case.

“We are honored to partner with the ACLU in bringing this worthy lawsuit,” said Durrant. “What we are talking about here goes well beyond having a ‘tough’ jail. There is a well-documented, chronic problem of brutality in the jails that must be redressed.”

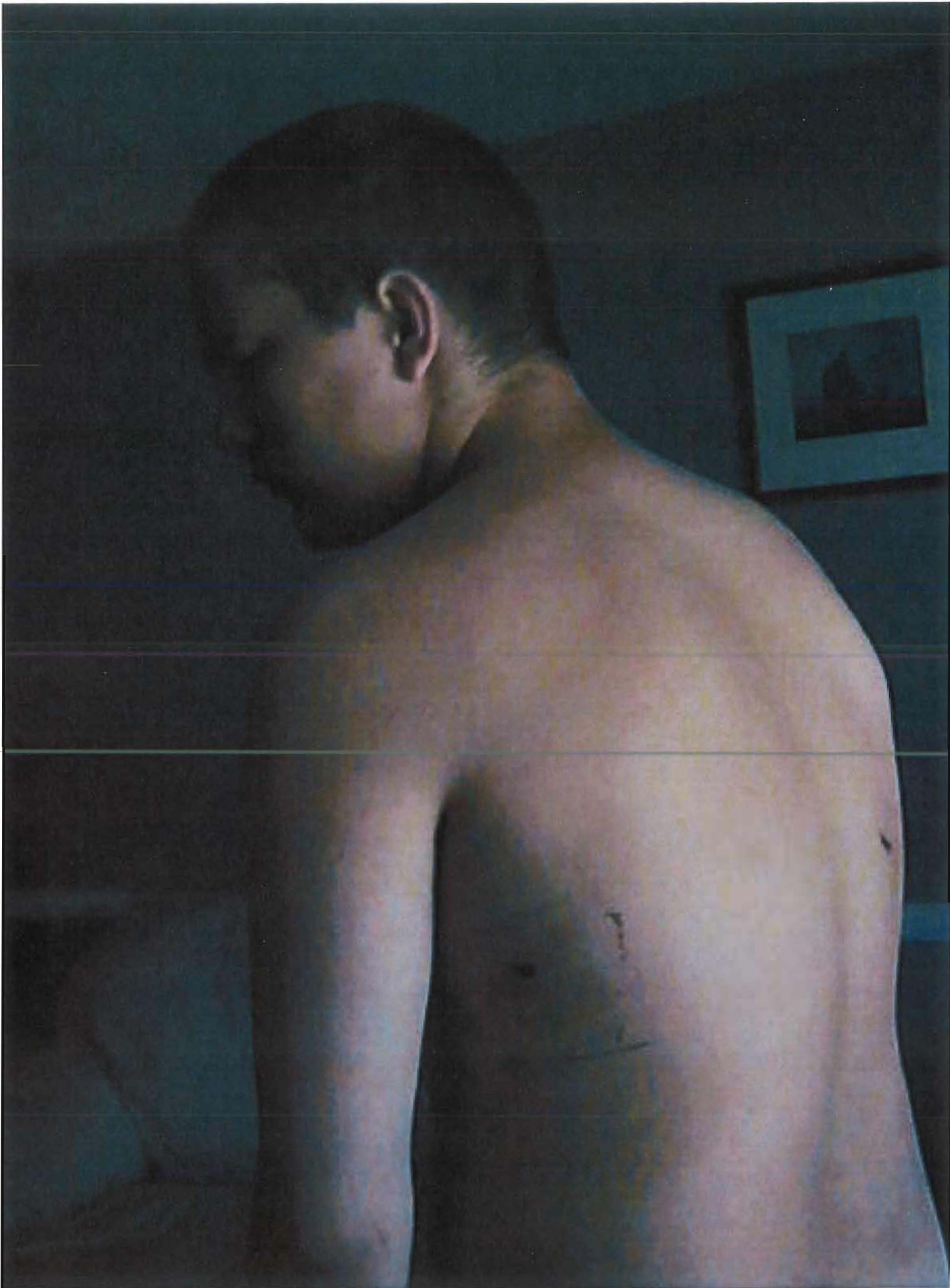
More information about the case, including today’s complaint and a timeline detailing the ACLU’s fight to improve conditions in the Los Angeles County jail, is available at: [www.aclu.org/prisoners-rights/rosas-et-al-v-baca-et-al](http://www.aclu.org/prisoners-rights/rosas-et-al-v-baca-et-al)

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Published on *American Civil Liberties Union* (<http://www.aclu.org>)

**Source URL:** <http://www.aclu.org/prisoners-rights/aclu-lawsuit-charges-los-angeles-county-sheriff-condoning-pattern-deputy-inmate>

**"Exhibit 7"**







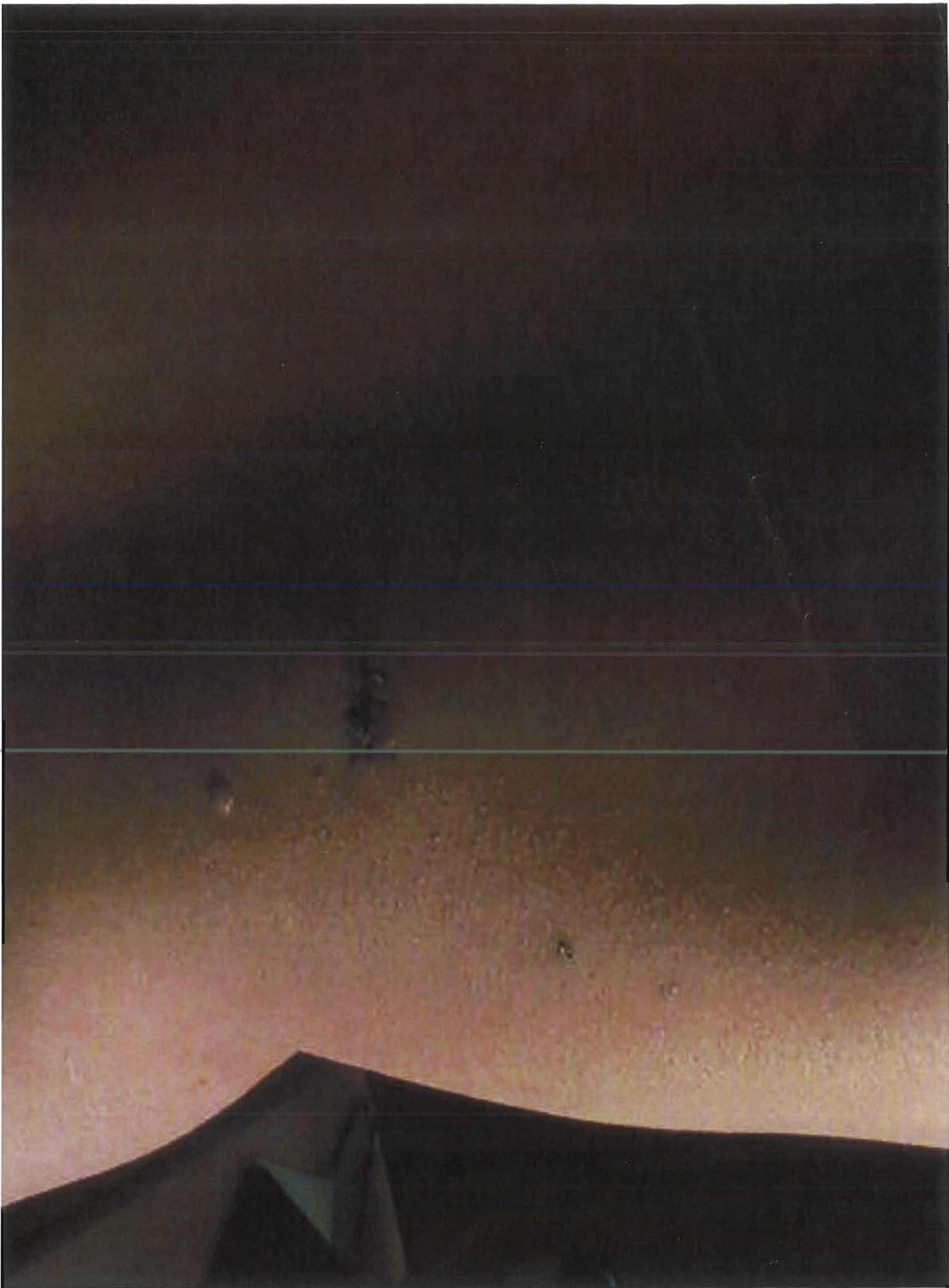












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