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2012 MAR 27 PM 12:16  
 CLERK U.S. DISTRICT COURT  
 CENTRAL DIST. OF CALIF.  
 LOS ANGELES

**FILED**

8  
 9 **UNITED STATES DISTRICT COURT**  
 10 **CENTRAL DISTRICT OF CALIFORNIA**

11 GABRIEL MOSES CARRILLO,

12 Plaintiff,

13 v.

14 DEPUTY PANTAMITR  
 ZUNGGEEMOGE, DEPUTY SUSSIE  
 15 AYALA, DEPUTY FERNANDO  
 LUVIANO, DEPUTY NOEL  
 16 WOMACK, SERGEANT ERIC  
 GONZALEZ, CAPTAIN DANIEL  
 17 CRUZ, CAPTAIN DUANE HARRIS,  
 COUNTY OF LOS ANGELES and  
 18 DOES 1 through 10, inclusive,

19 Defendants.

CASE NO.

**COMPLAINT FOR DAMAGES**

- 1) Violation of Civil Rights, 42 U.S.C. § 1983;
- 2) Violation of Civil Rights, 42 U.S.C. § 1983, Supervisory Liability.
- 3) Violation of California Civil Code § 52.1;
- 4) Assault and Battery;
- 5) Supervisory Negligence;
- 6) Violation of Civil Rights, 42, U.S.C. § 1983, *Monell* Violations.

**[DEMAND FOR JURY TRIAL]**

20  
 21  
 22  
 23  
 24  
 25 **JURISDICTION**

26 1. The Court has jurisdiction over the federal law claims action pursuant to Title  
 27 28 U.S.C. §§1331 and 1343. The Court also has supplemental jurisdiction  
 28 over the state claims and over all Defendants. Plaintiff brings this action pursuant to

1 Title 42 U.S.C. §§ 1983, 1988 and the state law claims for relief are within the  
2 supplemental jurisdiction of the Court, pursuant to Title 28 U.S.C. § 1367.

### 3 **VENUE**

4 2. Venue over Plaintiff's claims is proper in the Central District of California as  
5 Plaintiff's claims herein arises out of incidents involving deputies of the Los  
6 Angeles County Sheriff's Department, and the events giving rise to the claim  
7 occurred in the Los Angeles County Men's Central Jail in Los Angeles, California,  
8 within the Central District of California. Title 28 U.S.C. §1391(a)(1) and (b)(2).

9 3. Plaintiff filed a Claim in accord with California Government Code §§ 910 *et*  
10 *seq.*, with the State of California on August 4, 2011. Plaintiff's Claim was rejected  
11 on October 5, 2011, and this action is timely filed.

### 12 **PARTIES**

13 4. Plaintiff Gabriel Moses Carrillo is, and was at all times relevant hereto, a  
14 resident of the County of Los Angeles, and an adult competent to bring this suit in  
15 this Court.

16 5. Defendant Deputy Pantamitr Zunggeemoge was a Los Angeles County  
17 Sheriff's Department Deputy stationed at the Los Angeles County Men's Central Jail  
18 on February 26, 2011. The acts of this Defendant, which are the subject of this  
19 lawsuit, were undertaken in the regular course of his employment for the Los  
20 Angeles County Sheriff's Department. He is sued in his individual capacity. Upon  
21 information and belief aforesaid Defendant is a resident of the County of Los  
22 Angeles.

23 6. Defendant Deputy Sussie Ayala was a Los Angeles County Sheriff's  
24 Department Deputy stationed at the Los Angeles County Men's Central Jail on  
25 February 26, 2011. The acts of this Defendant, which are the subject of this lawsuit,  
26 were undertaken in the regular course of her employment for the Los Angeles  
27 County Sheriff's Department. She is sued in her individual capacity. Upon  
28 information and belief aforesaid Defendant is a resident of the County of Los

1 Angeles.

2 7. Defendant Deputy Fernando Luviano was a Los Angeles County Sheriff's  
3 Department Deputy stationed at the Los Angeles County Men's Central Jail on  
4 February 26, 2011. The acts of this Defendant, which are the subject of this lawsuit,  
5 were undertaken in the regular course of his employment for the Los Angeles  
6 County Sheriff's Department. He is sued in his individual capacity. Upon  
7 information and belief aforesaid Defendant is a resident of the County of Los  
8 Angeles.

9 8. Defendant Deputy Noel Womack was a Los Angeles County Sheriff's  
10 Department Deputy stationed at the Los Angeles County Men's Central Jail on  
11 February 26, 2011. The acts of this Defendant, which are the subject of this lawsuit,  
12 were undertaken in the regular course of his employment for the Los Angeles  
13 County Sheriff's Department. He is sued in his individual capacity. Upon  
14 information and belief aforesaid Defendant is a resident of the County of Los  
15 Angeles.

16 9. Defendant Sergeant Eric Gonzalez was a Sergeant stationed at the Los  
17 Angeles County Men's Central jail on February 26, 2011, and employed by the Los  
18 Angeles County Sheriff's Department. The acts of this Defendant, which are the  
19 subject of this lawsuit, were undertaken in the regular course of his employment for  
20 the Los Angeles County Sheriff's Department. He is sued both in his individual and  
21 official capacity. Upon information and belief aforesaid Defendant is a resident of  
22 the County of Los Angeles.

23 10. Defendant Captain Daniel Cruz was a Captain stationed at the Los Angeles  
24 County Men's Central jail employed for the Los Angeles County Sheriff's  
25 Department. The acts of this Defendant, which are the subject of this lawsuit, were  
26 undertaken in the regular course of his employment for the Los Angeles County  
27 Sheriff's Department. He is sued in both in his individual and official capacity.  
28 Upon information and belief aforesaid Defendant is a resident of the County of Los

1 Angeles.

2 11. Defendant Captain Duane Harris was a Captain stationed at the Los Angeles  
3 County Men's Central jail employed by the Los Angeles County Sheriff's  
4 Department. The acts of this Defendant, which are the subject of this lawsuit, were  
5 undertaken in the regular course of his employment for the Los Angeles County  
6 Sheriff's Department. He is sued in both in his individual and official capacity.  
7 Upon information and belief aforesaid Defendant is a resident of the County of Los  
8 Angeles.

9 12. Defendant County of Los Angeles is, and at all times alleged herein was, a  
10 public entity, organized and existing under the laws of the State of California.

11 13. Plaintiff is informed and believes and thereon alleges that Defendants sued  
12 herein as DOES 1 through 10, inclusive, are other employees of the Los Angeles  
13 County Sheriff's Department and were at all relevant times acting in the course and  
14 scope of their employment and agency. Each Defendant is the agent of the other.  
15 Plaintiff alleges that each of the Defendants named as a "DOE" was in some manner  
16 responsible for the acts and omissions alleged herein, and Plaintiff will ask leave of  
17 this Court to amend the Complaint to allege such names and responsibility when that  
18 information is ascertained.

#### 19 PRELIMINARY ALLEGATIONS

20 14. This action is brought under Title 42 U.S.C. § 1983 and on the Fourth, Fifth  
21 and Fourteenth Amendments of the United States Constitution, and pursuant to the  
22 general laws of the United States and of the State of California. Plaintiff also alleges  
23 that the conduct of each Defendant deprived Plaintiff of his constitutional right to  
24 due process under the law, and caused Plaintiff to suffer grievous pain, suffering,  
25 anxiety, depression, harm and injury based on his false arrest, wrongful  
26 imprisonment, and the excessive force applied against him.

27 15. Each of the Defendants and Doe Defendants caused and is responsible for the  
28 unlawful conduct and resulting injury by, *inter alia*, personally participating in the

1 conduct, or acting jointly and in concert with others who did so by authorizing,  
2 acquiescing in or failing to take action to prevent the unlawful conduct by  
3 intervention, or promulgating policies and procedures or practices pursuant to which  
4 the unlawful conduct occurred; by failing and refusing to initiate and maintain  
5 adequate training, supervision, policies, procedures and protocols; by failing to  
6 implement and ensure compliance with policies and procedures to ensure the safety  
7 and reasonable security of individuals, such as Plaintiff; and by ratifying the  
8 unlawful conduct performed by agents, employees, counselors, staff, deputies and  
9 officers under their direction and control.

10 16. Whenever and wherever reference is made in this Complaint to any act by a  
11 Defendant, such allegation and reference will also be deemed to mean the acts and  
12 failures to act of each Defendant individually, jointly or severally.

## 13 **FACTUAL ALLEGATIONS**

### 14 **A. INCIDENT ALLEGATIONS**

#### 15 **Background**

16 17. On February 26, 2011, Mr. Carrillo was visiting his brother Robert Carrillo  
17 who was in custody at the Men's Central Jail in the County of Los Angeles. Robert  
18 Carrillo had recently been arrested by Sheriff's deputies in East Los Angeles, and  
19 had been hospitalized for his injuries before being transported to Men's Central Jail.  
20 Mr. Carrillo entered the visiting lobby of the Men's Central Jail with his girlfriend,  
21 Griselda Torres, and his grandmother, Delores Mejia.

22 18. When other visitors who were in line in front of Mr. Carrillo were checking in  
23 at the front reception desk, deputies would look at the visitor's identification, and  
24 quickly return it. When examining Mr. Carrillo's identification, however, several  
25 deputies gathered together and whispered to each other. At the time Mr. Carrillo had  
26 several visible tattoos located on his neck.

27 19. While waiting in the visiting lobby, Ms. Torres dropped a cellular phone on  
28 the floor. Within Men's Central Jail and in the outside patio, signs were posted

1 prohibiting the possession of cellular telephones on Jail property. The signs made  
2 no reference to possession of a cellular telephone being a criminal offense.

3 20. In response to Ms. Torres dropping the cellular telephone, a Sheriff's deputy  
4 escorted Ms. Torres to a small "break" room behind the Sheriff's reception desk in  
5 the inmate visiting lobby. The break room was approximately 10 feet by 8 feet, with  
6 several chairs and desks, bookshelves, a refrigerator, and a sink. Shortly after  
7 arriving in the break room, Ms. Torres was handcuffed behind her back.

8 21. While in the break room, deputies questioned Ms. Torres about whether she  
9 was visiting the Jail with anyone else. Ms. Torres responded her boyfriend, Mr.  
10 Carrillo, and his grandmother, Ms. Mejia. When asked whether her boyfriend had a  
11 cellular phone, Ms. Torres stated that he might have one.

12 22. After learning this information about Mr. Carrillo, Defendant Zunggeemoge  
13 and another deputy approached Mr. Carrillo who was waiting in the visiting lobby  
14 and asked him to stand up. Mr. Carrillo complied and one of the deputies handcuffed  
15 Mr. Carrillo behind his back. The deputies then escorted Mr. Carrillo to the back  
16 break room. At no time did Mr. Carrillo fail to follow the deputies instructions. At  
17 no time did he resist the deputies.

18 23. As Mr. Carrillo entered the break room with his hands cuffed behind him,  
19 Defendant Zunggeemoge shoved him face first into a small refrigerator. In response,  
20 Mr. Carrillo asked something to the effect: "what was that for?" to which Defendant  
21 Zunggeemoge twisted Mr. Carrillo's hands behind his back and said "shut the fuck  
22 up." Defendant Zunggeemoge then searched Mr. Carrillo and discovered a cellular  
23 telephone. During these events, Ms. Torres was seated with her hands cuffed behind  
24 her back in the small room.

25 24. Shortly after discovering Mr. Carrillo's cellular telephone, several of the  
26 deputies left the break room leaving Defendant Deputy Ayala alone with Mr.  
27 Carrillo and Ms. Torres. Ms. Torres asked Defendant Ayala whether she and Mr.  
28 Carrillo could go to jail for this offense, to which Defendant Ayala said "yes." After

1 hearing Defendant Ayala's response, Mr. Carrillo told Ms. Torres to not speak to the  
2 any of the deputies, and told her that if he was not in handcuffs, things would be  
3 different.

4 25. Upon hearing this, Defendant Ayala confronted Mr. Carrillo, ordered him to  
5 stand up, and yelled in his face: "what did you say?" She then radioed a code and, as  
6 a result, Defendant Zunggeemoge, Defendant Luviano and several other deputies  
7 entered the break room. As they arrived, Defendant Ayala stated something to the  
8 effect: "You know what this home boy said? If he wasn't in handcuffs he would take  
9 flight on us." Take flight is street vernacular for fight. Mr. Carrillo denied saying  
10 this, and in response, Defendant Luviano said something to the effect: "shut the fuck  
11 up." Defendant Luviano then added something to the effect: "Let's see what this  
12 guy's about. Let's take his handcuffs off and see how tough he is. Get his fucking  
13 girlfriend out of here."

14 **The Beating of Mr. Carrillo**

15 26. Once Ms. Torres was taken out of the room, the deputies threw Mr. Carrillo to  
16 the floor and began punching and kicking his body and face. Mr. Carrillo's hands  
17 were still handcuffed behind his back while he was beaten on the floor. At times he  
18 was pulled by his handcuffed hands in order to move his body.

19 27. As Mr. Carrillo squirmed to try to avoid the blows, one of the deputies  
20 kneeled down placing his knee on Mr. Carrillo's back, stopping him from moving.  
21 For most of the beating, one deputy was at Mr. Carrillo's feet, holding them with one  
22 hand and punching his thighs with the other. Another deputy kept his knee pressed  
23 against Mr. Carrillo's back and was punching his ribs. A third deputy punched his  
24 head and face. Deputies were cursing at him while they kicked and punched him.

25 28. Several times during the beating, the door to the break room opened. As soon  
26 as the door was opened, the deputies stopped the beating. When the door was shut,  
27 however, the beating resumed.

28 29. Mr. Carrillo never resisted throughout the beating. Multiple times throughout

1 the beating, deputies yelled at Mr. Carrillo to stop resisting. On at least one  
2 occasion, Mr. Carrillo responded "I'm not resisting." Mr. Carrillo blacked out from  
3 the Deputies' beating.

4 30. Defendant Luviano, and other deputies of the Los Angeles Sheriff's  
5 Department stationed at the Men's Central Jail, had a practice during this time period  
6 of audibly making statements to the effect of "stop resisting" while they engaged in  
7 acts of excessive force against inmates in custody, regardless of the fact that the  
8 inmates were not resisting the deputies in any manner. On information and belief,  
9 deputies at the Men's Central Jail employed this tactic so that witnesses – whether it  
10 be percipient witnesses or video / audio recordings – would hear the fabricated  
11 justification for the use of force.

12 31. At some point during the beating, Defendant Luviano sprayed Mr. Carrillo's  
13 face with a 3-5 second burst of Freeze + P – also known as Pepper Spray, which  
14 interfered with his ability to breathe. As Mr. Carrillo gasped for breath, he  
15 complained to the deputies that he could not breathe. In response, Defendant  
16 Luviano said something to the effect of: "if you can talk, you can breathe . . . I  
17 don't give a fuck if you choke, if you die." Then Defendant Luviano said: "fuck  
18 your gang." The spray which contacted the open wounds on Mr. Carrillo's face  
19 caused him great pain.

20 32. Defendant Luviano, and other deputies of the Los Angeles Sheriff's  
21 Department, had a practice during this time period of unnecessarily spraying Freeze  
22 + P – also known as Pepper Spray, in the face and eyes of inmates who had been  
23 beaten by the deputies, and were immobilized. On information and belief,  
24 Defendant Luviano, and other deputies of the Los Angeles Sheriff's Department,  
25 engaged in such spraying to create the appearance of resistance by inmates, and also,  
26 to inflict additional pain and suffering on inmates, particularly those with open  
27 wounds on their faces.

28 33. Shortly after Defendant Luviano sprayed Pepper Spray into the face, but while

1 Mr. Carrillo lay coughing and gagging on the floor, with the deputy's knee on his  
2 back, a deputy came into the break room with towels to clean the floor of Mr.  
3 Carrillo's blood.

4 34. Shortly thereafter, the paramedics came and provided treatment to Mr.  
5 Carrillo, and then he was taken into an interview room where he was videotaped.

6 35. Mr. Carrillo was handcuffed during the whole beating – his hands were never  
7 free and remained cuffed together behind his back throughout. At no point did the  
8 deputies ever take the cuffs off Mr. Carrillo's hands.

9 36. After the beating, Mr. Carrillo was taken by ambulance to the jail ward at the  
10 County Hospital. Eventually, he was taken to the Inmate Reception Center, where  
11 he was placed for hours in a holding tank. During this time he suffered from  
12 substantial pain.

### 13 **The Cover-Up**

14 37. After being escorted out of the break room by a Sheriff's deputy, Ms. Torres  
15 was taken to the main lobby of the Men's Central Jail. For several hours she was  
16 guarded by Sheriff's deputies, the majority of the time with her hands cuffed behind  
17 her back. While she was in custody, she observed multiple deputies run through the  
18 hallway, and watched an ambulance arrive on the scene. Mr. Torres believed that  
19 the deputies had beaten, or perhaps had killed, Mr. Carrillo.

20 38. As deputies left the break room after the beating, a witness observed the  
21 deputies, in particular Defendant Ayala, laughing and discussing how they would  
22 create a story to characterize the beating as a response to Mr. Carrillo's resistance.  
23 Specifically, Defendant Ayala was heard saying something to the effect: "should I  
24 say that my jaw hurts . . . that my ribs hurt."

25 39. Ultimately, the deputy guarding Ms. Torres emphasized that she needed to  
26 make a statement against Mr. Carrillo before she could be released. The deputy  
27 emphasized that Ms. Torres had a job, and a young daughter, and that she should not  
28 lose it all for Mr. Carrillo. At first she refused to lie and say something against Mr.

1 Carrillo. Later, Ms. Torres agreed to write out a statement, and repeat her statement  
2 on video tape in order to be released and return to her daughter.

3 40. In the video taped interview Ms. Torres specifically stated that Mr. Carrillo  
4 did not come to Men's Central Jail making any aggressive statements against the  
5 Sheriff's Department; that he only came to see his brother.

6 41. On information and belief, after placing Mr. Carrillo into custody, Defendants  
7 Zunggeemoge, Ayala, Luviano, Womack, Gonzalez and Does 1 through 10, met and  
8 discussed how they would respond to the beating of Mr. Carrillo. On information  
9 and belief, corresponding to an already existing custom by Sheriff's deputies at the  
10 Men's Central Jail, the group agreed to characterize the beating of Mr. Carrillo by  
11 stating that Mr. Carrillo initiated the confrontation with the deputies. In particular,  
12 the Defendants conspired to create a fictitious story that Defendant Zunggeemoge  
13 had uncuffed Mr. Carrillo's right hand in order to fingerprint him, and while  
14 uncuffed, Mr. Carrillo first attempted to escape from the break room, and when  
15 stopped, attacked multiple deputies. Further, the deputies falsely alleged that Mr.  
16 Carrillo deliberately spit on Defendant Luviano.

17 42. In truth and fact, Mr. Carrillo's hands were cuffed throughout the beating in  
18 the break room; no effort was taken to finger print him; he never spat at Defendant  
19 Luviano; and he never resisted the deputies.

20 43. After creating this false and fabricated story, Defendants Zunggeemoge,  
21 Ayala, Luviano, and Womack wrote false and fabricated Supplemental Reports in  
22 support of Mr. Carrillo's wrongful arrest, accusing him of Resisting a Police Officer,  
23 a violation of California Penal Code § 69.

24 44. After reviewing the reports of these defendants, and knowing that these  
25 reports were false and fabricated, Defendant Sergeant Gonzalez nonetheless  
26 approved the reports, which set in motion Mr. Carrillo's wrongful prosecution.

27 **The Filing of Criminal Charges**

28 45. After Mr. Carrillo was arrested, Defendant Zunggeemoge drafted the

1 Probable Cause Determination (Declaration) for the prosecution under Penal Code  
2 Section 69, Resisting Arrest. In that document, Defendant Zunggeemoge falsely  
3 described the incident which occurred in the break room, misrepresenting the facts  
4 by describing Mr. Carrillo as the initiator and aggressor of the incident. On  
5 information and belief, at 2:30 p.m. on February 26, 2011, Defendant Zunggeemoge  
6 signed the Probable Cause Determination (Declaration) under the penalty of perjury.  
7 Defendant Zunggeemoge's false description of events which occurred in the break  
8 room was perjurous.

9 46. After returning from the hospital, and before being placed in custody at  
10 Men's Central Jail, Mr. Carrillo was booked in the Inmate Reception Center on  
11 February 26, 2011, approximately 1000 feet from the break room where he was  
12 beaten.

13 47. Based on Defendant Zunggeemoge's false description of the facts leading up  
14 to Mr. Carrillo's arrest, on February 27, 2011 at 11:34 a.m., Superior Court Judge  
15 Teresa A. Beaudet found that there was probable cause that Mr. Carrillo committed  
16 the crime of Resisting an Executive Officer.

17 48. With false and fabricated charges set against him, Mr. Carrillo retained a bail  
18 bondsman and was released on \$50,000.00 bail on March 1, 2011.

19 49. Based on the false and fabricated reports provided by Defendants  
20 Zunggeemoge, Ayala, Luviano, Womack, and the knowing approval of these false  
21 reports by Defendant Sergeant Gonzalez, on March 2, 2011, the Los Angeles  
22 County District Attorney's Office filed a Criminal Complaint with the California  
23 Superior Court against Mr. Carrillo, charging him with: (a) Resisting an Executive  
24 Officer, a violation of Penal Code Section 69 - a felony; (b) Escape from Arrest by  
25 force and violence, a violation of Penal Code Section 836.6(b) - a felony; (c)  
26 Battery by Gassing (reflecting Mr. Carrillo's purported spitting on Defendant  
27 Luviano), a violation of Penal Code Section 243.9(a) - a felony; (d) Battery with  
28 injury on a Peace Officer, a violation of Penal Code Section 243(c)(2) - a felony;

1 and (e) Possession of a Wireless Device in Jail / Prison, a violation of Penal Code  
2 Section 4575(a) - a misdemeanor.

3 50. Based on the filing of these false and fabricated charges, Mr. Carrillo retained  
4 counsel to defend his case.

5 51. On April 14, 2011, a preliminary hearing examination was held by the  
6 California Superior Court to determine if there was probable cause for Mr. Carrillo  
7 to face felony charges. The Los Angeles County District Attorney's Office  
8 represented the People of the State of California and Mr. Carrillo was represented  
9 by retained counsel. At that hearing, Defendants Zunggeemoge, Luviano, and  
10 Womack testified under oath against Mr. Carrillo. Defendants Zunggeemoge,  
11 Luviano and Womack provided false testimony at this hearing and committed  
12 perjury under California law. As a result of this false testimony, the California  
13 Superior Court held Mr. Carrillo to answer the felony charges set out in the  
14 Criminal Complaint.

15 52. Based on the findings of the Superior Court, the Los Angeles District  
16 Attorney's Office filed a felony Information with the Superior Court against Mr.  
17 Carrillo, charging him with: (a) Resisting an Executive Officer, a violation of Penal  
18 Code Section 69 - a felony; (b) Escape from Arrest by force and violence, a  
19 violation of Penal Code Section 836.6(b) - a felony; (c) Battery by Gassing  
20 (reflecting Mr. Carrillo's purported spitting on Defendant Luviano), a violation of  
21 Penal Code Section 243.9(a) - a felony; (d) Battery with injury on a Peace Officer, a  
22 violation of Penal Code Section 243(c)(2) - a felony; and (e) Possession of a  
23 Wireless Device in Jail / Prison, a violation of Penal Code Section 4575(a) - a  
24 misdemeanor.

25 53. These charges subjected Mr. Carrillo to the possibility of 14 years in a  
26 California State Prison, plus any additional time in custody for a violation of Penal  
27 Code Section 4575(a) – Possession of a Wireless Device in Jail / Prison.

28 54. On July 22, 2011, an evidentiary hearing was held in the Los Angeles

1 Superior Court based on Mr. Carrillo's motion to suppress the cellular telephone  
2 seized from him on February 26, 2011, pursuant to Penal Code Section 1538.5. At  
3 that hearing, Defendant Zunggeemoge testified under oath on behalf of the People  
4 of California. Once again Defendant Zunggeemoge provided false testimony at this  
5 hearing and committed perjury under California law. At that hearing, the People of  
6 the State of California were represented by the Los Angeles County District  
7 Attorney's Office, and Mr. Carrillo was represented by retained counsel.

8 55. On August 16, 2011, Superior Court Judge William Ryan granted Mr.  
9 Carrillo's suppression motion and suppressed the cellular telephone seized on  
10 February 26, 2011, barring its use as evidence in the case.

11 56. On information and belief, an internal investigation was initiated by the Los  
12 Angeles County Sheriff's Department to assess whether deputies involved in Mr.  
13 Carrillo's arrest – and prosecution – including Defendants Zunggeemoge, Luviano,  
14 Ayala provided false and fabricated evidence and testimony to the District  
15 Attorney's Office, and whether excessive force was used by the deputies against Mr.  
16 Carrillo.

17 57. On October 14, 2011, the Los Angeles County District Attorney's Office  
18 dismissed all charges pending against Mr. Carrillo that were set out in the  
19 Information.

20 **B. AS THE RESULT OF THE UNCONSTITUTIONAL POLICY,**  
21 **PRACTICE AND CUSTOM OF THE LOS ANGELES COUNTY**  
22 **SHERIFF'S DEPARTMENT IN TOLERATING, RATIFYING AND**  
23 **PERMITTING THE UNCONSTITUTIONAL CONDUCT OF**  
24 **DEPUTIES AT THE LOS ANGELES COUNTY MEN'S CENTRAL**  
25 **JAIL, THE DEFENDANTS ACTED WITH IMPUNITY IN ENGAGING**  
26 **IN ACTS OF EXCESSIVE FORCE, FALSIFYING EVIDENCE, AND**  
27 **BRINGING FALSE CHARGES.**

28 58. Pursuant to a consent decree issued in *Dennis Rutherford v. Baca, et al.*, CV

1 75-4111-DDP, the ACLU of Southern California prepares an annual report  
2 regarding conditions at Los Angeles County's Men's Central Jail. In relation to the  
3 most recent annual report, "Cruel and Unusual Punishment, How a Savage Gang of  
4 Deputies Controls LA County Jails," the ACLU has disclosed multiple declarations  
5 revealing systemic acts of excessive force and fabrication of evidence by sheriff's  
6 deputies at Men's Central Jail. Further, the Report cited to the statements of  
7 multiple civilians who witnessed the unconstitutional, sadistic abuse of inmates by  
8 Sheriff's deputies, while also witnessing the deputies falsely make statements to the  
9 victim inmates of "stop resisting," to cover-up their brutal conduct.

10 59. Beginning on September 25, 2011 the *Los Angeles Times* printed a series of  
11 articles reporting on "allegations of deputy brutality and other misconduct in the  
12 Los Angeles County jail system." *Jails Under Scrutiny Series*, L.A. Times, Sept. 25,  
13 2011-Dec. 25, 2011, available at [http://www.latimes.com/news/local/la-me-jails-](http://www.latimes.com/news/local/la-me-jails-sg,0,4834651.story)  
14 [sg,0,4834651.story](http://www.latimes.com/news/local/la-me-jails-sg,0,4834651.story). The series provides information regarding, *inter alia*: the  
15 widespread use of excessive force by deputies at the Men's Central Jail; memos  
16 detailing the excessive force problem at Men's Central Jail and what Sheriff Baca  
17 and other supervisors knew about the excessive force problem at Men's Central Jail;  
18 an FBI investigation of deputy force at Men's Central Jail; deputy gangs or cliques  
19 within Men's Central Jail; and the removal of Defendant Captain Daniel Cruz from  
20 his position overseeing the Men's Central Jail.

21 60. Several articles focus, in particular, on the longstanding nature of the problem  
22 of excessive force at Men's Central Jail and what the department has done—or not  
23 done—in response. Two such articles are: (1) Robert Faturechi & Jack Leonard,  
24 *Sheriff Lee Baca Was Warned About Jail Deputies' Conduct, Retiree Says*, L.A.  
25 Times, December 1, 2011 ("*Baca Warned*"); (2) Jack Leonard & Robert Faturechi,  
26 *Sheriff's Staff Raised Red Flags About Jail Brutality 2 Years Ago*, L.A. Times,  
27 October 29, 2011 ("*Red Flags*").

28 61. Prior to and during the time of the beating of Mr. Carrillo and the fabrication

1 of evidence against him, supervisors of the Los Angeles County Sheriff's  
 2 Department were aware of the existence of the brutal, unconstitutional practices of  
 3 the deputies within the Men's Central Jail. Defendant County of Los Angeles had a  
 4 duty to adequately train, supervise, and control its officers to prevent the deputies'  
 5 from committing acts of excessive force against individuals within the Men's  
 6 Central Jail and fabricating evidence intended to cover-up their acts of excessive  
 7 force.

8 62. In addition, Defendant County of Los Angeles had a duty to disseminate to  
 9 Deputy District Attorneys prosecuting cases in which a deputy was to testify,  
 10 including prosecutors who represented Defendant County of Los Angeles during  
 11 Mr. Carrillo's case, that deputies assigned to the Men's Central Jail had a practice of  
 12 engaging in acts of excessive force and fabrication of evidence. The County of Los  
 13 Angeles' failure to do so resulted in the prosecutors in Mr. Carrillo's case filing  
 14 criminal charges against him, resulting in Mr. Carrillo having to retain counsel and  
 15 defend himself of false criminal charges.

16 **FIRST CLAIM FOR RELIEF**

17 **VIOLATION OF 42 U.S.C. § 1983**

18 **AGAINST DEFENDANT ZUNGGEEMOGE, DEFENDANT AYALA,**  
 19 **DEFENDANT LUVIANO, DEFENDANT WOMACK, DEFENDANT**  
 20 **SERGEANT ERIC GONZALEZ, AND DOES 1 THROUGH 10**

21 63. Plaintiff restates and incorporates by reference Paragraphs 1-62 above, as  
 22 though fully stated herein.

23 64. Defendant Zunggeemoge, Defendant Ayala, Defendant Luviano, Defendant  
 24 Womack, Defendant Sergeant Gonzalez, and Does 1 through 10, acting under color  
 25 of state law, deprived Plaintiff of rights, privileges, and immunities secured by the  
 26 Constitution and laws of the United States including the Fourth, Fifth and  
 27 Fourteenth Amendments by:  
 28

1 a. Subjecting Plaintiff to excessive force and unjustified infliction of  
2 harm;

3 c. Falsely arresting Plaintiff for: (a) Resisting an Executive Officer, a  
4 violation of Penal Code Section 69 - a felony; (b) Escape from Arrest by force  
5 and violence, a violation of Penal Code Section 836.6(b) - a felony; (c)  
6 Battery by Gassing (reflecting Mr. Carrillo's purported spitting on Defendant  
7 Luviano), a violation of Penal Code Section 243.9(a) - a felony; (d) Battery  
8 with injury on a Peace Officer, a violation of Penal Code Section 243(c)(2) - a  
9 felony; based on deliberately false police reports;

10 d. Interfering with Plaintiff's right to seek redress for his injuries by  
11 covering up for their officer misconduct;

12 e. Denying Plaintiff due process of law, all to Plaintiff's damages as  
13 herein above alleged.

14 65. As a direct and proximate result of the aforementioned acts of Defendants,  
15 Plaintiff was injured as set forth above, and is entitled to compensatory and punitive  
16 damages according to proof.

17 **SECOND CLAIM FOR RELIEF**

18 **VIOLATION OF 42 U.S.C. § 1983**

19 **FOR FAILURE TO SUPERVISE, TRAIN, AND TAKE CORRECTIVE**  
20 **MEASURES CAUSING CONSTITUTIONAL VIOLATION.**

21 **AGAINST DEFENDANTS SERGEANT GONZALEZ,**

22 **DEFENDANT CAPTAIN DANIEL CRUZ,**

23 **DEFENDANT CAPTAIN DUANE HARRIS and DOES 1-10**

24 66. Plaintiff restates and incorporates by reference Paragraphs 1-65 above, as  
25 though fully stated herein..

26 67. At all times material herein, Defendant Sergeant Gonzalez, Defendant  
27 Captain Daniel Cruz, Defendant Captain Duane Harris and Does 1-10, as  
28 supervisors of the Los Angeles County Sheriff's Department, under the color of law,

1 had a duty to supervise and control officers under their command within the Los  
2 Angeles County Men's Central Jail to ensure that said officers would not violate the  
3 constitutional rights of individuals by using excessive force, fabricating criminal  
4 allegations, and testifying falsely in criminal proceedings..

5 68. Defendant Sergeant Gonzalez was the supervisor inside the break room when  
6 the beating of Mr. Carrillo occurred in the visiting section of the Los Angeles  
7 County Men's Central Jail on February 26, 2012, and arrived during the beating of  
8 Mr. Carrillo. Defendant Sergeant Gonzalez had the opportunity and the duty to take  
9 control of the situation and of the deputies beating Mr. Carrillo to prevent an  
10 unwarranted use of excessive force, but failed to control the deputies under his  
11 supervision, and instead ratified and even encouraged the use of force against Mr.  
12 Carrillo.

13 69. Defendant Sergeant Gonzalez, knowing that the incident reports and the  
14 supplemental reports of the deputies who engaged in the beating of Mr. Carrillo on  
15 February 26, 2012 were false and fabricated, approved of these false and fabricated  
16 reports, thereby causing the filing of false charges against Mr. Carrillo.

17 70. Defendant Captain Daniel Cruz, stationed at the Los Angeles County Men's  
18 Central Jail until December of 2010, and Defendant Captain Duane Harris, stationed  
19 at the Los Angeles County Jail on February 26, 2011, knew or should have known  
20 of a history and propensity and pattern at the time of this incident for deputies  
21 assigned to the Men's Central Jail to engage in acts of excessive force and creating  
22 false and fabricated reports in order to cover-up acts of excessive force. In  
23 particular, Defendant Captain Cruz and Defendant Captain Harris knew or should  
24 have known about Defendant Luviano's history of engaging in acts of excessive  
25 force, and fabrication of evidence, and Defendant Ayala's history of engaging in  
26 wrongful detention practices and fabrication of evidence. As the Captains of the  
27 Men's Central Jail, Defendant Captain Cruz and Defendant Captain Harris failed to  
28 comply in implementing policies and procedures or ensuring that acts of excessive

1 force and the creation of false and fabricated reports not occur; failed to train and  
 2 ensure that deputies refrain from acts of excessive force and the creation of false  
 3 and fabricated reports.

4 71. As a direct and proximate cause thereof, Defendant Sergeant Gonzalez,  
 5 Defendant Captain Cruz, Defendant Captain Harris and supervising Does 1-10  
 6 failed to supervise and control Defendant Zunggeemoge, Defendant Ayala,  
 7 Defendant Luviano, Defendant Womack, Defendant Sergeant Gonzalez, and  
 8 subordinate Does 1 through 10, and by doing so, permitted Defendant  
 9 Zunggeemoge, Defendant Ayala, Defendant Luviano, Defendant Womack,  
 10 Defendant Sergeant Gonzalez, and subordinate Does 1 through 10, to unlawfully  
 11 engage in excessive force and the falsification of evidence against Mr. Carrillo.

### 12 **THIRD CLAIM FOR RELIEF**

#### 13 **CALIFORNIA CIVIL CODE § 52.1**

14 **AGAINST INDIVIDUALLY NAMED DEFENDANT ZUNGGEEMOGE,**  
 15 **DEFENDANT AYALA, DEFENDANT LUVIANO, DEFENDANT WOMACK,**  
 16 **DEFENDANT SERGEANT ERIC GONZALEZ, DOES 1 THROUGH 10 and**  
 17 **THE COUNTY OF LOS ANGELES.**

18 72. Plaintiff restates and incorporates by reference Paragraphs 1-71 above, as  
 19 though fully stated herein.

20 73. The County of Los Angeles is liable for the violations of its employees under  
 21 California Government Code Section 815.2(a). Furthermore, the County of Los  
 22 Angeles is liable under California Government Code Section 815.6.

23 74. The United States Constitution, Amendment IV, Amendment V, and  
 24 Amendment XIV, and the California Constitution, Article I § 13, guarantee the right  
 25 of persons to be free from excessive force and to be free from having false and  
 26 fabricated charges filed against them. Defendants, by engaging in the wrongful  
 27 conduct alleged herein, interfered or attempted to interfere by threats, intimidation,  
 28

1 and/or coercion, with Plaintiff's exercise or enjoyment of these rights, thus giving  
 2 rise to claims for damages pursuant to California Civil Code § 52.1(b).

3 75. As a direct and proximate result of the aforementioned acts of defendants,  
 4 Plaintiff was injured as set forth above, and is entitled to statutory damages under  
 5 California Civil Code § 52, as well as compensatory and punitive damages  
 6 according to proof.

#### 7 **FOURTH CLAIM FOR RELIEF**

#### 8 **ASSAULT AND BATTERY**

9 **AGAINST INDIVIDUALLY NAMED DEFENDANT ZUNGGEEMOGE,**  
 10 **DEFENDANT AYALA, DEFENDANT LUVIANO, DEFENDANT WOMACK,**  
 11 **DEFENDANT SERGEANT ERIC GONZALEZ, DOES 1 THROUGH 10 AND**  
 12 **THE COUNTY OF LOS ANGELES.**

13 76. Plaintiff restates and incorporates by reference Paragraphs 1-75 above, as  
 14 though fully stated herein..

15 77. The County of Los Angeles is liable for the violations of its employees under  
 16 California Government Code Section 815.2(a). Furthermore the County of Los  
 17 Angeles is liable under California Government Code Section 815.6.

18 78. Defendant Zunggeemoge, Defendant Ayala, Defendant Luviano, Defendant  
 19 Womack, Defendant Sergeant Gonzalez, and Does 1 through 10, acting within the  
 20 scope of their employment as law enforcement officers for the Los Angeles County  
 21 Sheriff's Department, assaulted and battered Plaintiff causing injury.

22 79. As a direct and proximate result of the aforementioned acts of defendants,  
 23 Plaintiff was injured as set forth above, and is entitled to compensatory and punitive  
 24 damages according to proof.

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26 \\\

27 \\\

28 \\\

**FIFTH CLAIM FOR RELIEF**

**NEGLIGENCE**

**AGAINST DEFENDANTS SERGEANT GONZALEZ,**

**DEFENDANT CAPTAIN DANIEL CRUZ,**

**DEFENDANT CAPTAIN DUANE HARRIS and DOES 1-10**

80. Plaintiff restates and incorporates by reference Paragraphs 1-79 above, as though fully stated herein.

81. Defendant Sergeant Gonzalez, Defendant Captain Daniel Cruz, Defendant Captain Duane Harris and Doe supervisors 1-10, acting within the course and scope of their employment had a duty to assure the competence of their employee/agents Defendants and Does 1-10, but breached their duty and were negligent in the performance of their duties by selecting, training, reviewing, supervising, failing to supervise, evaluating the competency and retaining their defendant law enforcement officers, and/or employees and/or agents. This breach of the duty of careful selection, training, review, supervision, periodic evaluation of the competency, and retention of such law enforcement officers and /or employees and /or agents created an unreasonable risk of harm to persons such as Mr. Carrillo.

82. Defendant Sergeant Gonzalez, Defendant Captain Daniel Cruz, Defendant Captain Duane Harris and Doe supervisors 1-10 breached their duty of care to observe, report, monitor and discipline their defendant law enforcement officers, and/or employees and /or agents.

83. As a direct and legal result of the aforesaid negligence, carelessness and unskillfulness of Defendant Sergeant Gonzalez, Defendant Captain Daniel Cruz, Defendant Captain Duane Harris and Doe supervisors 1-10, and each of them, and as a result of their breach of duty of care to Mr. Carrillo, he suffered the damages as alleged herein.

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**SIXTH CLAIM FOR RELIEF**  
**DEPRIVATION OF CIVIL RIGHTS -- 42 U.S.C. §1983**  
**MONELL LIABILITY**  
**AGAINST DEFENDANT COUNTY OF LOS ANGELES, DEFENDANT**  
**CAPTAIN DANIEL CRUZ IN HIS OFFICIAL CAPACITY, DEFENDANT**  
**CAPTAIN DUANE HARRIS IN HIS OFFICIAL CAPACITY**  
**AND DOES 1 - 10.**

84. Plaintiff restates and incorporates by reference Paragraphs 1-83 above, as though fully stated herein.

85. Plaintiff is informed and believes and thereon alleges that, at all times herein mentioned, Defendant County of Los Angeles, Defendant Daniel Cruz, Defendant Duane Harris and Does 1 - 10, with deliberate indifference, and conscious and reckless disregard to the safety, security and constitutional and statutory rights of Plaintiff, engaged in the unconstitutional conduct and omissions, which consist of the following customs and/or policies:

- a. The knowing presentation of false evidence by deputies;
- b. The deliberately indifferent presentation of false evidence by deputies;
- c. The presentation of false evidence by deputies in reckless disregard for the truth or the rights of the accused;
- d. Subjecting citizens, including Mr. Carrillo, to unreasonable uses of force against their persons;
- e. Selecting, retaining, and assigning deputies with demonstrable propensities for excessive force, violence, and other misconduct;
- f. Failing to adequately train, supervise, and control deputies in the field of law enforcement, including the use of force;
- g. Failing to adequately discipline deputies involved in misconduct, including excessive force and dishonesty;

- 1 h. Condoning and encouraging officers in the belief that they can violate
- 2 the rights of persons such as Gabriel Carrillo with impunity, and that
- 3 such conduct will not adversely affect their opportunities for promotion
- 4 and other employment benefits;
- 5 i. Knowingly failing to disband deputy gangs within the Los Angeles
- 6 County Sheriff's Department which engage in unconstitutional conduct
- 7 against individuals at the Men' Central Jail, including, among other
- 8 things, the fabrication of evidence in criminal cases and engaging in
- 9 acts of excessive force
- 10 j. Condoning and encouraging deputies in the belief that they can violate
- 11 the rights of persons such as Mr. Carrillo with impunity, and that such
- 12 conduct will not adversely affect their opportunities for promotion and
- 13 other employment benefits; and
- 14 k. Condoning and encouraging the fabrication of evidence including but
- 15 not limited to the filing of materially false police reports, and/or
- 16 making false statements to prosecution authorities to obtain the filing
- 17 of false charges.

18 86. The actions and inactions of the Los Angeles County Sheriff's Department set  
19 forth in ¶¶ 58-62 were known or should have been known to the policy makers  
20 responsible for the Los Angeles County Sheriff's Department and occurred with  
21 deliberate indifference to either the recurring constitutional violations elaborated  
22 above, and/or to the strong likelihood that constitutional rights would be violated as  
23 a result of failing to train, supervise or discipline in areas where the need for such  
24 training and supervision was obvious.

25 87. The actions of the Los Angeles County Sheriff's Department set forth herein  
26 were a motivating force behind the violations of Mr. Carrillo's constitutional rights  
27 as set forth in this complaint.  
28

1 88. As a direct and proximate result of Defendant County of Los Angeles' acts  
2 and omissions, condoning, encouraging, ratifying and deliberately ignoring the  
3 pattern and practice of Defendants and Does 1 - 10 acts and omissions, Plaintiff  
4 sustained injury and damage as proved.

5 **DAMAGES**

6 89. As a direct and proximate result of the aforesaid acts, practices, policies and  
7 decisions of Defendant Zunggeemoge, Defendant Ayala, Defendant Luviano,  
8 Defendant Womack, Defendant Sergeant Gonzalez, Defendant Captain Daniel Cruz,  
9 Defendant Captain Duane Harris, Defendant County of Los Angeles and Does 1  
10 through 10, Plaintiff has suffered great mental and physical pain, physical injury,  
11 suffering, anguish, fright, nervousness, anxiety, shock, humiliation, indignity,  
12 embarrassment, harm to reputation, and apprehension, which have caused Plaintiff  
13 to sustain damages in a sum to be determined at trial.

14 90. All Defendants acted outside the scope of their jurisdiction and without  
15 authorization of law, and, separately and in concert, the aforementioned acts of the  
16 Defendants, and each of them, was willful, wanton, malicious and oppressive, with  
17 reckless disregard or with deliberate indifference with the intent to deprive Plaintiff  
18 of his rights and privileges, and did in fact violate the aforementioned rights and  
19 privileges, entitling Plaintiff to exemplary and punitive damages in an amount to be  
20 proven at the trial of this matter.

21 91. By reason of the afore described acts and omissions of Defendants, Plaintiff  
22 was required to retain an attorney to defend himself against the false and fabricated  
23 criminal charges, thereby incurring damages by way of attorney fees.

24 92. By reason on the afore described acts and omissions of Defendants, Plaintiff  
25 was required to retain an attorney to prosecute the within action, and to render legal  
26 assistance to Plaintiff that he might vindicate the loss and impairment of his rights,  
27 and by reason thereof, Plaintiff requests payment by Defendants of a reasonable sum  
28 for attorney's fees pursuant to 42 U.S.C. § 1988.

**PRAYER FOR RELIEF**

93. WHEREFORE, Plaintiffs pray for judgment against Defendant Zunggeemoge, Defendant Ayala, Defendant Luviano, Defendant Womack, Defendant Sergeant Gonzalez, Defendant Captain Cruz, Defendant Captain Harris, Defendant County of Los Angeles, and Does 1 through 10, and each of them, jointly and severally, as described and limited in the Causes of Action set forth above, as follows:

1. For general and compensatory damages according to proof;
2. For special damages according to proof;
3. For exemplary and punitive damages against individual Defendant in an amount according to proof;
4. For costs of suit and reasonable attorneys' fees permitted pursuant to 42 U.S.C., §1988; and
5. For such further relief as the court may deem just and equitable.

Respectfully submitted,

KAYE, McLANE & BEDNARSKI, LLP

DATED: March 27, 2012

By:   
RONALD O. KAYE  
Attorneys for Plaintiff

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**JURY DEMAND**

Trial by jury of all issues is demanded.

KAYE, McLANE & BEDNARSKI, LLP

DATED: March 27, 2012

By: 

RONALD O. KAYE  
Attorneys for Plaintiff