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27 Attorneys for Plaintiffs

28 UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

ENOSH BAKER, DAVID BUSCHO, SARENA  
GROSSJAN-NAVARRO, DEANNA JOHNSON,  
SOPHIA KAMRAN, ELIZABETH LARA, IAN  
LEE, SOO LEE, EVAN LOKER, THOMAS  
MATZAT, DARREN NEWELL, CHARLES  
PARKER, WILLIAM ROBERTS, FATIMA  
SBEIH, EVKA WHALEY-MAYDA, KASE  
WHEATLEY, EDWARD GEOFFREY  
WILDANGER, NOAH WILEY, and JORDAN  
WILHEIM,

Plaintiffs,

vs.

LINDA KATEHI, Chancellor of the University of  
California at Davis; RALPH J. HEXTER, Provost  
and Executive Vice Chancellor of the University of  
California at Davis; FRED WOOD, Vice  
Chancellor for Student Affairs at the University of

*(Defendants Continued...)*

Case No.

**COMPLAINT FOR DAMAGES FOR  
VIOLATION OF CIVIL RIGHTS WITH  
SUPPLEMENTAL CLAIMS FOR  
VIOLATION OF THE CALIFORNIA STATE  
CONSTITUTION AND STATUTES**

**JURY TRIAL DEMANDED**

1 California at Davis; JOHN MEYER, Vice  
2 Chancellor of Administration and Resource  
3 Management at the University at California at  
4 Davis; ANNETTE SPICUZZA, Chief of the  
5 University of California at Davis Police  
6 Department; JOHN PIKE, Lt. in the University of  
7 California at Davis Police Department; and DOES  
8 1 – 50, officers of the University of California at  
9 Davis Police Department.

10 Defendants.

## 11 INTRODUCTION

12 On November 18, 2011, University of California at Davis campus police attacked a peaceful  
13 assembly at the center of the campus quad, arresting many students without probable cause and shooting  
14 high-concentration pepper spray directly into the faces of students who were engaging in nonviolent  
15 protest. The actions of the police provoked shock and outrage nationally, in part because the video  
16 footage was so reminiscent of the infamous images of police in the South using fire hoses to spray and  
17 disperse nonviolent student sit-ins during the civil rights movement.

18 The 19 plaintiffs in this action were protesting university privatization, distribution of resources,  
19 tuition hikes, police brutality and other onerous public policies adopted by the University administration  
20 and the Board of Regents. Their protest was an integral part of continuing, vigorous assembly and free  
21 speech activities which had been conducted by students for weeks at the same time the nationwide  
22 Occupy Wall Street movement mobilized thousands nationwide. Seventeen of the plaintiffs were U.C.  
23 Davis students at the time; the other two are recent graduates.

24 This action seeks the following relief: a declaration from the Court that campus policies and  
25 practices that led to the abuse of the plaintiffs and others offend both the state and federal constitutional  
26 guarantees of the rights to free speech and assembly and that the pepper-spraying and arrests of plaintiffs  
27 violated their state and federal constitutional rights; an injunction to prevent repetition of such a response  
28 to a non-violent protest; and compensatory and punitive damages against the individual perpetrators of  
the illegal acts and their superiors who ordered, directed and/or condoned this outrageous conduct..

### I. JURISDICTION AND VENUE

1. Because this civil-rights action arises under the United States Constitution, this Court has

1 jurisdiction under 28 U.S.C. §§ 1331 and, 1343(a)(3), (4). This Court has supplemental jurisdiction over  
2 the state law claims under 28 U.S.C. §1367.

3 2. At all times pertinent to this Complaint and in taking all of the actions described in this  
4 Complaint, Defendants, and each of them, acted and threatened to act under color of state law.

5 3. The events giving rise to this action occurring in Yolo County, California which is located  
6 within this district.

7 **II. PARTIES**

8 4. Plaintiff ENOSH BAKER graduated from U.C. Davis in 2009 and, at all times material to  
9 this Complaint, was teaching on campus and awaiting decision on his graduate program application. He  
10 was participating in a peaceful demonstration on the U.C. Davis campus on November 18, 2011, when he  
11 was picked up by Defendant U.C. Davis police officers Does 2 and 3, thrown forcefully to the ground,  
12 handcuffed behind his back, and illegally arrested. His head struck a sprinkler head during the arrest.

13 5. Plaintiff DAVID BUSCHO is a student at U.C. Davis who, while participating in a  
14 peaceful assembly on U.C. Davis campus on November 18, 2011, was sprayed repeatedly with pepper  
15 spray by Defendant U.C. Davis police officers Lt. John Pike and/or Doe 1 without legal cause or  
16 justification.

17 6. Plaintiff SARENA GROSSJAN-NAVARRO is a U.C. Davis student who was  
18 participating in a peaceful demonstration on the U.C. Davis campus on November 18, 2011, when she  
19 was pepper sprayed without legal cause or justification by Defendant U.C. Davis police officer Lt. John  
20 Pike and/or Doe 1.

21 7. Plaintiff DEANNA JOHNSON is a student at U.C. Davis who was participating in a  
22 peaceful demonstration on U.C. Davis campus on November 18, 2011, when she was pepper sprayed  
23 without legal cause or justification by Defendant U.C. Davis police officer Lt. John Pike and/or Doe 1.

24 8. Plaintiff SOPHIA KAMRAN is a student at U.C. Davis who was participating in a  
25 peaceful demonstration on U.C. Davis campus on November 18, 2011, when she was pepper sprayed  
26 without legal cause or justification by Defendant U.C. Davis police officer Lt. John Pike and/or Doe 1.

27 9. Plaintiff ELIZABETH LARA is a student at U.C. Davis who was participating in a  
28

1 peaceful assembly on the U.C. Davis campus on November 18, 2011, when she was illegally arrested by  
2 Defendant U.C. Davis police officers Does 16 and 17 and transported to the campus jail.

3 10. Plaintiff IAN LEE is a student at U.C. Davis who was participating in a peaceful  
4 demonstration on the U.C. Davis campus on November 18, 2011, when he was pepper sprayed by  
5 Defendant U.C. Davis police officer Lt. John Pike and/or Doe 1 without legal cause or justification and  
6 then pinned to the ground by defendant Pike.

7 11. Plaintiff SOO LEE is a student at U.C. Davis who was participating in a peaceful  
8 demonstration on the U.C. Davis campus on November 18, 2011, when she was pepper sprayed by  
9 Defendant U.C. Davis police officer Lt. John Pike and/or Doe 1 without legal cause or justification.

10 12. Plaintiff EVAN LOKER, at all times material to this complaint, was a student at U.C.  
11 Davis and was participating in a peaceful demonstration on the U.C. Davis campus on November 18,  
12 2011, when he was pepper sprayed by Defendant U.C. Davis police officer Lt. John Pike and/or Doe 1  
13 without legal cause or justification.

14 13. Plaintiff THOMAS MATZAT is a student at U.C. Davis who was participating in a  
15 peaceful demonstration on the U.C. Davis campus on November 18, 2011, when he was selected for  
16 illegal arrest, then handcuffed painfully behind his back and grabbed and dragged by Defendant U.C.  
17 Davis police officers, Does 23 and 4, to a police car and transported to campus jail.

18 14. Plaintiff DARREN NEWELL is a student at U.C. Davis who was participating in a  
19 peaceful demonstration on the U.C. Davis campus on November 18, 2011, when he was targeted for  
20 illegal arrest. Two U.C. Davis police officers, defendants Doe 5 and 6, had him stand up and they then  
21 handcuffed his hands behind his back, put him into a patrol car and transported him to jail.

22 15. Plaintiff CHARLES PARKER is a student at U.C. Davis who was participating in a  
23 peaceful demonstration on the U.C. Davis campus on November 18, 2011, when he was targeted for  
24 illegal arrest. Three U.C. Davis police officers, Defendants Does 7, 8, and 9, slammed him to the  
25 ground, kned him and kneeled on him, then handcuffed him behind his back and dragged him to a  
26 police car in which he was placed and then driven to the campus jail. He was denied medical assistance  
27 and access to medication while detained in the campus jail.

28 16. Plaintiff WILLIAM ROBERTS is a student at U.C. Davis and was participating in a

1 peaceful demonstration on the U.C. Davis campus on November 18, 2011, when he was pepper-sprayed  
2 without legal cause or justification by defendant U.C. Davis police officer Lt. John Pike and/or Doe 1.

3 17. Plaintiff FATIMA SBEIH is a student at U.C. Davis and was participating in a peaceful  
4 demonstration on the U.C. Davis campus on November 18, 2011, when she was pepper sprayed, without  
5 legal cause or justification, by defendant U.C. Davis police officer Lt. John Pike and/or Doe 1.

6 18. Plaintiff EVKA WHALEY-MAYDA is a student at U.C. Davis and was participating in a  
7 peaceful demonstration on the U.C. Davis campus on November 18, 2011, when she was pepper-sprayed,  
8 without legal cause or justification, by defendant U.C. Davis police officer Lt. John Pike and/or Doe 1.

9 19. Plaintiff KASE WHEATLEY is a student at U.C. Davis and was participating in a  
10 peaceful demonstration on the U.C. Davis campus on November 18, 2011, when he was pepper sprayed,  
11 without legal cause or justification, by defendant U.C. Davis police officer Lt. John Pike and/or Doe 1,  
12 then handcuffed behind his back and falsely arrested by defendant U.C. Davis police officers Does 10  
13 and 11, placed into a police car and transported to the campus jail.

14 20. Plaintiff EDWARD WILDANGER is a student at U.C. Davis and was participating in a  
15 peaceful demonstration on the U.C. Davis campus on November 18, 2011, when, without legal cause or  
16 justification, he was pepper sprayed by defendant U.C. Davis police officer Lt. John Pike and/or Doe 1.

17 21. Plaintiff NOAH WILEY is a student at U.C. Davis and was participating in a peaceful  
18 demonstration on the U.C. Davis campus on November 18, 2011, when he was pepper sprayed without  
19 legal cause or justification by defendant U.C. Davis police officer Lt. John Pike and/or Doe 1, then  
20 falsely arrested by defendant U.C. Davis police officers Does 12 and 13 and transported to the campus  
21 jail.

22 22. Plaintiff JORDAN WILHEIM is a U.C. Davis alumnus who was graduated in the spring  
23 of 2011 and was visiting campus on November 18, 2011, when he witnessed and participated in a  
24 peaceful demonstration on the U.C. Davis campus. During that demonstration he was handcuffed behind  
25 his back and falsely arrested by U.C. Davis police officers, defendants Does 14 and 15, and then  
26 transported to campus jail.

27 23. Defendant LINDA KATEHI is the Chancellor of the University of California at Davis.  
28 She is sued in her individual and official capacities.



1 to meet openly, to “occupy the quad” to discuss and study university privatization, tuition hikes, and their  
2 relation to other issues of macro political and social importance, and to consider what they could do to  
3 change conditions which had brought people together in support of the Occupy Wall Street Movement.

4 33. A group of students set up tents on the quad and the “Occupation of the Quad” began.  
5 Shortly after the first tents were erected, U.C. Davis administrative employees delivered to some of the  
6 students on the quad a notice that included a campus “no overnight camping” policy. The notice was  
7 discussed and the group concluded that they were symbolically “occupying the quad” in support of and  
8 in solidarity with the 99% championed by the Occupy Wall Street movement.

9 34. On the evening of November 17, the Associated Students of the University of California  
10 at Davis (ASUCD) endorsed the “occupation of the quad.”

11 35. On November 18, in the afternoon, Defendant Police Chief SPICUZZZA, accompanied  
12 by a Doe Defendant, delivered a letter from Defendant Chancellor KATEHI directing students to remove  
13 the tents by 3:00 p.m. “in interest of safety, respect for our campus environment and in accordance with  
14 our Principles of Community.”

15 36. Students held another assembly, discussed the letter the Chancellor had delivered, and  
16 many decided to remove their tents and did so. Others resolved to remain.

17 37. Shortly before 3:00 p.m., a large number of police in riot gear armed with long batons,  
18 pepper-ball guns and other weapons were seen massing in formation adjacent to the quad. The students  
19 moved the remaining tents to the circle on the Centennial Walk, a concrete pathway in the middle of the  
20 campus quad, and stood around them.

21 38. The officers advanced on the students as can be seen on any number of videotapes. They  
22 began pushing students away, or throwing them to the ground. Some of the officers disassembled or  
23 destroyed the tents. As the tents were being removed, students sat down in a large circle. Classes were  
24 letting out and hundreds of additional students swarmed out of their buildings to watch what was  
25 happening.

26 39. The campus officers pointed to specific students, arrested them and began grabbing them  
27 and hauling them off to jail. Plaintiff ENOSH BAKER was the first to be grabbed and thrown to the  
28 ground by two police officers, Defendants DOE 2 and DOE 3. He hit his head on a sprinkler fixture as

1 he was thrown to the ground and his hands were tightly zip tied together behind his back as he was taken  
2 into custody and placed into a police car.

3 40. Plaintiff CHARLES PARKER was targeted by three police officers, Defendants DOE 7,  
4 DOE 8, and DOE 9 grabbed him. His hands were painfully zip tied behind his back, exacerbating a prior  
5 military combat injury, and he was placed into a police car where he joined BAKER and plaintiff  
6 ELIZABETH LARA.

7 41. Plaintiff LARA had arrived immediately prior to the police advancing on those students  
8 standing around the circle and joined the circle. When the police reached the crowd she was thrown to  
9 the ground by Defendant police officers DOES 16 and 17, her hands were zip tied behind her, and she  
10 was arrested and taken to the police car which then transported her, PARKER and BAKER to the police  
11 station. Plaintiffs' hands were all zip tied, some zip ties were particularly tight, cutting off blood flow,  
12 but the jailers did not have the special equipment needed to cut the plastic ties. Eventually, the zip ties  
13 were cut and removed.

14 42. As the group of students was being pushed by officers, students began to sit down in a  
15 line. Officers were stepping over the seated students, who did nothing to stop them. Then Defendant  
16 PIKE ordered the students to leave or stated they would be "shot." As is discernible from audio tapes of  
17 his reaction, Plaintiff WHEATLEY responded: "You're going to shoot us if we don't leave?"

18 43. Defendant PIKE then shook a canister of pepper spray like a can of aerosol paint, stepped  
19 over the line of sitting, crouching students and walked up and down the line repeatedly dousing Plaintiffs  
20 with orange colored pepper spray, mostly from a distance of one-to-two feet. Students watching the  
21 scene screamed or shouted: "Shame."

22 44. Another officer, Doe 1, then approached the line of seated demonstrators from behind and  
23 began spraying them with a separate canister of pepper spray.

24 45. Documents that the University of California has subsequently released in response to a  
25 request for public records indicate that the substance used was Defense Technology's MK-9 Magnum  
26 spray, with a major Capsaicinoid concentration of .7%. The single page of manufacturer's information  
27 that the University was able to provide states that the minimum recommended distance for this  
28 formulation is 6 feet. The University states that it has no other package inserts, warnings, or instructions



1 relating to this product, although California law requires that all such substances sold in California be  
2 accompanied by printed instructions for use, first aid information, and safety information. *See* Ca. Penal  
3 Code § 22810(e)(4), (f) (former § 12403.7).

4 46. Plaintiff MATZAT's hands were zip-tied behind his back and he was arrested along with  
5 Plaintiff WHEATLEY who had been pepper-sprayed and both had been transferred to jail by Defendants  
6 Does 23, and 4 and 18 and 19, respectively.

7 47. Plaintiffs BUSCHO, GROSSJAN-NAVARRO, JOHNSON, KAMRAN, IAN LEE, SOO  
8 LEE, LOKER, ROBERTS, SBEIHN, WHALEY-MAYDA and WILDANGER were pepper sprayed by  
9 Defendant PIKE and Doe Officers and left to deal with their burning eyes, faces and skin. Neither the  
10 University nor the police provided adequate medical attention on the scene to any of the students who  
11 had been sprayed.

12 48. Members of the campus student body administered first aid to Plaintiffs who could not see  
13 and were disoriented. Plaintiff WHALEY-MAYDA was transported by ambulance to the hospital where  
14 her eyes were irrigated and a skin rash from the pepper spray was treated.

15 49. As reported by the University, ten persons were arrested, all on the same charges: Failure  
16 to Disperse from as Unlawful Assembly (Cal. Penal Code § 409). They were released after several hours  
17 and all were assigned the same court date for arraignment, January 31, 2012. Prior to that date, however,  
18 the District Attorney of Yolo County announced that no complaints would be filed against any of the  
19 persons arrested. As of the filing of this complaint none of the plaintiffs has been charged with any  
20 crime arising out of the November 18 protest.

21 50. At the time campus police started arresting people, a large number of students had  
22 gathered in a non-violent assemblage, which remained so but for the violence used by Defendant police  
23 officers, PIKE and Does 1 to 50, inclusive, to arrest non-resisting persons. All of those persons, who  
24 assembled, including plaintiffs who were pepper sprayed, were illegally required to disperse from the  
25 campus quad by helmeted police enforcing their erroneous decision that the gathering was unlawful.

26 51. The decision to declare the assemblage of students on the quad at 3:00 p.m. on November  
27 18, 2011, unlawful, was made by defendants, KATEHI, HEXTER, WOOD, MEYER and SPICUZZA,  
28 acting in concert, and executed by defendants PIKE and Defendant DOES 1 through 50, inclusive.

1 There was no legal cause to disperse the assembly, and the declaration of an unlawful assembly violated  
2 the plaintiffs' rights of freedom of speech and assembly guaranteed by the First Amendment to the  
3 United States Constitution and the Liberty of Speech Clause of the California Constitution.

4 52. Defendants KATEHI, HEXTER, WOOD, MEYER and SPICUZZA had an affirmative  
5 duty to properly screen, train and supervise defendants PIKE and DOE Defendants 1 through 50, but  
6 failed to do so, resulting in the actions and violations of the rights of Plaintiffs and others described  
7 herein.

8 53. Defendants KATEHI, HEXTER, WOOD, MEYER and SPICUZZA failed properly to  
9 investigate the background of Defendant PIKE who was not qualified for the position he held, and failed  
10 to terminate him when his lack of qualifications became known; as a result of the negligent hiring and  
11 retention of Defendant PIKE he was enabled personally to commit the violations described herein and to  
12 supervise and direct defendants DOES 1 through 50 in the commission of the acts and violations  
13 described herein.

14 54. All of the plaintiffs, as well as others who may be joined to this action when they come  
15 forward, were injured by being deprived of their rights to assemble and to speak freely, and by being  
16 arrested and/or pepper sprayed and subjected to other acts of excessive force by defendants and each of  
17 them. Such injuries included physical pain and suffering, deprivations of liberty, and infliction of  
18 emotional distress.

19 55. The actions of Defendants, and each of them, were intentional and malicious in that the  
20 pepper spraying and arrest of peacefully assembled students on their college campus was so clearly in  
21 violation of established state and federal law that no inference other than that the Defendants acted  
22 maliciously with intent to injure and to deprive plaintiffs of their constitutional rights can be drawn,  
23 entitling Plaintiffs, and each of them, to awards of punitive damages in amounts to be determined at trial.

24 56. On information and belief, certain plaintiffs were targeted by the police for forcible arrests  
25 based on their past political activism and associations at the University.

26 57. The actions of Defendants, and each of them, have had a chilling effect on the willingness  
27 of Plaintiffs to exercise their free-speech rights in areas under Defendants' control, causing Plaintiffs  
28 continuing injury that cannot be redressed by damages.

1 IV. COUNT ONE

2 **Violation of the First Amendment to the United States Constitution (42 U.S.C. § 1983)**

3 58. Plaintiffs reallege and incorporate herein, as if stated in full, each and every of the  
4 allegations contained in paragraphs 1 through 56, inclusive.

5 59. In prior years, Defendants and each of them, as well as their predecessors in their  
6 positions, permitted assemblies, demonstrations and protests on campus which included the erection of  
7 structures such as tents and domes, when the message and speakers were less controversial. In contrast,  
8 Defendants and each of them took the actions to disperse the lawful assembly on November 18, and to  
9 pepper spray and arrest students because of the demonstration's message and who was delivering it.

10 60. By interfering, including through the use of excessive force, Plaintiffs' peaceful protest,  
11 the actions of defendants and each of them violated the rights of Plaintiffs and each of them guaranteed  
12 to them by the First Amendment to the United States Constitution and caused them on-going irreparable  
13 injury and damage, as stated above.

14 61. WHEREFORE, Plaintiffs pray for relief as stated below.

15 V. COUNT TWO

16 **Violation of the Fourth Amendment to the United States Constitution (42 U.S.C. § 1983)**

17 62. Plaintiffs reallege and incorporate herein, as if stated in full, each and every of the  
18 allegations contained in paragraphs 1 through 57, inclusive.

19 63. In ordering, directing, approving, condoning, and executing the pepper spraying of  
20 Plaintiffs, the arrest of Plaintiffs, the physical removal of Plaintiffs, and/or the use of excessive force  
21 against Plaintiffs, the Defendants, and each of them, violated the prohibitions contained in the Fourth  
22 Amendment to the United States Constitution against unreasonable search or seizure, as a result of which  
23 plaintiffs, and each of them, were injured as stated above.

24 64. WHEREFORE, Plaintiffs pray for relief as stated below.

25 VI. COUNT THREE

26 **Violation of the 14<sup>th</sup> Amendment to the Unites States Constitution (42 U.S.C. § 1983)**

27 65. Plaintiffs reallege and incorporate herein by this reference, as if set out in full, each and  
28 every allegation contained in paragraphs 1 through 57, inclusive.

1 66. Personal possessions of Plaintiffs, including tents, were taken and destroyed by  
2 defendants, and each of them, without due process in violation of the 14<sup>th</sup> Amendment to the United  
3 States Constitution which prohibits the taking of property without due process of law.

4 67. WHEREFORE, plaintiffs pray for relief as stated below.

5 **VII. COUNT FOUR**

6 **Violation of Article 1 §§ 2 of the California State Constitution – Freedom of Speech**

7  
8 68. Plaintiffs reallege and incorporate herein by this reference, as if set out in full, each and  
9 every allegation contained in paragraphs 1 through 57, inclusive.

10 69. Article 1 § 2 of the California State Constitution guarantees the right to speak freely. By  
11 committing the acts alleged herein, Defendants, and each of them, violated the rights of Plaintiffs herein  
12 to free speech.

13 70. WHEREFORE, Plaintiffs pray for relief as stated below.

14 **VIII. COUNT FIVE**

15 **Violation of Article 1 § 3 of the California State Constitution – Freedom of Petition & Assembly**

16 71. Plaintiffs reallege and incorporate herein by this reference, as if set out in full, each and  
17 every allegation contained in paragraphs 1 through 57, inclusive.

18 72. Article 1 § 3 of the California State Constitution guarantees the People the right to  
19 freedom of assembly and to petition for redress. By committing the acts alleged herein, Defendants, and  
20 each of them, violated the rights of Plaintiffs herein to freely assemble and to petition.

21 73. WHEREFORE, Plaintiffs pray for relief as stated below.

22 **IX. COUNT SIX**

23 **Violation Article 1 § 13 of the California State Constitution – Unlawful Seizure**

24 74. Plaintiffs reallege and incorporate herein by this reference, as if set out in full, each and  
25 every allegation contained in paragraphs 1 through 57.

26 75. In ordering, directing, approving, condoning, and executing the pepper spraying of  
27 Plaintiffs, the arrest of Plaintiffs, the physical removal of Plaintiffs, and/or the use of excessive force  
28 against Plaintiffs, the Defendants, and each of them, violated the prohibitions contained in the Fourth

1 Amendment to the United States Constitution against unreasonable search or seizure, as a result of which  
2 plaintiffs, and each of them, were injured as stated above..

3 76. WHEREFORE Plaintiffs pray for relief as stated below.

4 **X. COUNT SEVEN**

5 **False Arrest/Imprisonment and Violation of § 836(a) of the California Penal Code**

6 77. Plaintiffs reallege and incorporate herein by this reference, as if set out in full, each and  
7 every allegation contained in paragraphs 1 through 57.

8 78. By arresting Plaintiffs without probable cause and for misdemeanor offenses not  
9 committed in the presence of the arresting officer at the time of the offense, Defendants violated  
10 Plaintiffs rights under California law.

11 79. WHEREFORE Plaintiffs pray for relief as stated below.

12 **XI. COUNT EIGHT**

13 **Violation of § 52.1 of the California Civil Code (Bane Act)**

14 80. Plaintiffs reallege and incorporate herein by this reference, as if set out in full, each and  
15 every allegation contained in paragraphs 1 through 71.

16 81. By dispersing the student assembly on the U.C. Davis quad on November 18, and by  
17 pepper spraying and/or falsely arresting Plaintiffs, Defendants and each of them through coercive force,  
18 violated federal and state constitutional and statutory rights guaranteed to Plaintiffs and thereby became  
19 liable for the damages Plaintiffs suffered, as well as treble damages, statutory damages, penalties, and  
20 attorneys' fees.

21 82. WHEREFORE Plaintiffs pray for relief as stated below.

22 **XII. COUNT NINE**

23 **Violation of § 845.6 of the California Government Code – failure to provide medical care**

24 83. Plaintiffs reallege and incorporate herein by this reference, as if set out in full, each and  
25 every allegation contained in paragraphs 1 through 57.

26 84. By failing to provide or summon medical care for persons whom they had taken to jail and  
27 who they had reason to know needed immediate medical care, Defendants violated Plaintiffs' rights  
28

1 under § 845.6 of the California Government Code.

2 85. WHEREFORE Plaintiffs pray for the following relief:

3 **XIII. PRAYER**

- 4 1. Injunctive relief under federal law;
- 5 2. Declaratory relief under federal law;
- 6 3. Compensatory Damages under state and federal law;
- 7 4. Punitive, Exemplary, and Statutory Damages under state and federal law;
- 8 5. Attorney’s Fees under state and federal law;
- 9 6. Costs under state and federal law; and
- 10 7. Such other and further relief as to this Court may deem just and proper.

11 **XIV. JURY TRIAL DEMANDED**

12 Plaintiffs hereby demand a jury trial in this action.

13  
14 DATED: February 22, 2012

Respectfully Submitted,

15  
16 /s/ “Mark E. Merin”  
17 By: \_\_\_\_\_  
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