

MARION R. YAGMAN
JOSEPH REICHMANN
STEPHEN YAGMAN
YAGMAN & YAGMAN & REICHMANN
723 Ocean Front Walk
Venice Beach, California 90291-3212
(310) 452-3200

ERWIN CHERMERINSKY
DUKE LAW SCHOOL
Corner of Science & Towerview
Durham, North Carolina 27708
(919) 613-7173

Attorneys for Plaintiffs, R. BAEZA,
C. BEDFORD, R. D'AMICO,
C. CORRAL, L. GOVAN,
H. GRIFFITH, M. HUEY,
E. JACKSON, J. JACKSON,
W. McFEE, G. NASH,
M. PHILLIPS, J. SHARROCK,
S. SOCHER, G. STROYEU,
S. WASHINGTON, D. WILLIAMS,
and G. WILLIAMSON

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

R. BAEZA, C. BEDFORD, R.
D'AMICO, C. CORRAL, L.
GOVAN, H. GRIFFITH, M. HUEY,
E. JACKSON, J. JACKSON, W.
McFEE, G. NASH, M. PHILLIPS, J.
SHARROCK, S. SOCHER, G.
STROYEU, S. WASHINGTON, D.
WILLIAMS, and G.
WILLIAMSON,

Plaintiffs,

vs.

LEROY BACA and TEN
UNKNOWN NAMED
DEFENDANTS,

Defendants.

 **ORIGINAL**

2007 MAY 10 PM 3:12
U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
LOS ANGELES

FILED

No.

CV 07 3109 MMM (PLAX)

COMPLAINT
(05-10-07)

(Damages for Deprivation of Civil
Rights, 42 U.S.C. § 1983)

CLASS ACTION ALLEGATIONS

JURY DEMAND

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2
3
4

5
6
7

8

9
10
11

13

5

17

19
20
21

22

23
24
25

26
27
28

1 10. All acts and/or omissions perpetrated by each defendant, except any
2 governmental entity defendant or any defendant only in his/her official capacity,
3 was engaged in maliciously, callously, oppressively, wantonly, recklessly, with
4 deliberate indifference to the rights allegedly violated, despicably, and with evil
5 motive and/or intent, in disregard of the rights of each plaintiff.

6 11. Each defendant in his/her official capacity knowingly, or grossly
7 negligently, or with deliberate indifference to the rights allegedly violated, caused
8 to come into being, maintained, fostered, condoned, approved of, either before the
9 fact or after the fact, ratified, took no action to correct, an official policy, practice,
10 procedure, or custom of permitting the occurrence of the categories of wrongs set
11 forth in this pleading, and/or improperly, inadequately, with deliberate indifference
12 to the constitutional or other federal rights of persons, grossly negligently, with
13 reckless disregard to constitutional or other federal rights, failed properly to train,
14 to supervise, to retrain, if necessary, to monitor, or to take corrective action with
15 respect to the police and with respect to the types of wrongful conduct alleged in
16 this pleading, so that each one of them is legally responsible for all of the injuries
17 and/or damages sustained by any plaintiff pursuant to the principles set forth in
18 *Monell v. New York City Dept. of Social Services* and its progeny.

19
20 12. All non-police officer defendants are sued herein on this theory both in
21 their individual/personal capacities and in their official capacities.

22 13. Also, it is alleged that prior decisions, if any, to pay for, or to indemnify
23 for, or to hold harmless for, punitive damages assessed by juries against police is a
24 basis for liability in this case, as it constitutes conduct that falls within the
25 definitions of the first sentence of this averment, as does prior payment of monies
26 by County and any of its officials and/or employees to plaintiff as a result of
27 wrongful conduct by defendants Block and Unknown Named Defendants.
28

1 14. Also, it is alleged that prior failures to investigate police misconduct
2 and/or to discipline police found culpable for misconduct, inadequate
3 investigations and/or inadequate discipline imposed for police misconduct, and/or
4 a failure to investigate or to discipline the police defendants in this case for the
5 alleged misconduct in this case, all make the defendants other than the police
6 officers liable for the police misconduct in this case.

7 15. From on or about January 1, 2006 to on or about May 10, 2007, persons
8 in the custody of the Los Angeles County Sheriff's Department were required to
9 sleep on the floors of the jail system because there was no bunk available on which
10 they could sleep.

11 16. During the period on or about January 1, 2006 to on or about May 10,
12 2007, plaintiff **R. BAEZA** slept on the jail floors because there was no bunk
13 provided for him.

14 17. During the period on or about January 1, 2006 to on or about May 10,
15 2007, plaintiff **C. BEDFORD** slept on the jail floors because there was no bunk
16 provided for him.

17 18. During the period on or about January 1, 2006 to on or about May 10,
18 2007, plaintiff **R. D'AMICO** slept on the jail floors because there was no bunk
19 provided for him.

20 19. During the period on or about January 1, 2006 to on or about May 10,
21 2007, plaintiff **C. CORRAL** slept on the jail floors because there was no bunk
22 provided for him.

23 20. During the period on or about January 1, 2006 to on or about May 10,
24 2007, plaintiff **L. GOVAN** slept on the jail floors because there was no bunk
25 provided for him.

26 21. During the period on or about January 1, 2006 to on or about May 10,
27
28

1 2007, plaintiff **H. GRIFFITH** slept on the jail floors because there was no bunk
2 provided for him.

3 22. During the period on or about January 1, 2006 to on or about May 10,
4 2007, plaintiff **M. HUEY** slept on the jail floors because there was no bunk
5 provided for him.

6 23. During the period on or about January 1, 2006 to on or about May 10,
7 2007, plaintiff **E. JACKSON** slept on the jail floors because there was no bunk
8 provided for him.

9 24. During the period on or about January 1, 2006 to on or about May 10,
10 2007, plaintiff **J. JACKSON** slept on the jail floors because there was no bunk
11 provided for him.

12 25. During the period on or about January 1, 2006 to on or about May 10,
13 2007, plaintiff **W. McFEE** slept on the jail floors because there was no bunk
14 provided for him.

15 26. During the period on or about January 1, 2006 to on or about May 10,
16 2007, plaintiff **G. NASH** slept on the jail floors because there was no bunk
17 provided for him.

18 27. During the period on or about January 1, 2006 to on or about May 10,
19 2007, plaintiff **M. PHILLIPS** slept on the jail floors because there was no bunk
20 provided for him.

21 28. During the period on or about January 1, 2006 to on or about May 10,
22 2007, plaintiff **J. SHARROCK** slept on the jail floors because there was no bunk
23 provided for him.

24 29. During the period on or about January 1, 2006 to on or about May 10,
25 2007, plaintiff **S. SOCHER** slept on the jail floors because there was no bunk
26 provided for him.

27 30. During the period on or about January 1, 2006 to on or about May 10,
28

1 2007, plaintiff **G. STROYEU** slept on the jail floors because there was no bunk
2 provided for him.

3 31. During the period on or about January 1, 2006 to on or about May 10,
4 2007, plaintiff **S. WASHINGTON** slept on the jail floors because there was no
5 bunk provided for him.

6 32. During the period on or about January 1, 2006 to on or about May 10,
7 2007, plaintiff **D. WILLIAMS** slept on the jail floors because there was no bunk
8 provided for him.

9 33. During the period on or about January 1, 2006 to on or about May 10,
10 2007, plaintiff **G. WILLIAMSON** slept on the jail floors because there was no
11 bunk provided for him.

12 34. Baca and Unknown Named Defendants agreed and understood they
13 would, conspired to, and illegally did cause plaintiffs to sleep on the floor,
14 unconstitutionally and with absolutely no legal basis to do so. Baca's and the
15 Unknowns' wrongful conduct constituted a conspiracy to accomplish the above-
16 stated acts, and was accomplished pursuant to a long-standing custom and policy
17 of forcing prisoners to sleep on the floor.

18 35. Baca has concealed his custom and practice of floor sleeping.

19 36. The conspiracies were carried out by Baca and other Sheriff's
20 Department officers who knew and understood that the way in which persons in
21 custody in the County jail were forced to sleep on the floors was unconstitutional.

22 37. Baca is liable in his individual capacity because he promulgated,
23 personally knew of, and personally implemented the policies, and knew of and
24 tolerated and acquiesced in the custom that actually caused plaintiffs to sleep on
25 the floors.

26 38. As a direct consequence of this conduct and these conspiracies plaintiffs
27 were forced to sleep on the floors.
28

1 39. At the time of the incidents alleged in this action, set forth immediately
2 above, the rights of persons within the jurisdiction of the United States of America
3 under Amendment IV to the United States Constitution to be secure in home,
4 person, papers, and effects against unreasonable searches and/or seizures, and not
5 to be subjected to the use of unreasonable or excessive force were in effect, and the
6 defendants engaged in conduct, including actionable omissions, as set forth above,
7 that violated those Fourth Amendment rights, and thereby and also violated the
8 Fourteenth Amendment to the United States Constitution, and which also were
9 deliberately indifferent to plaintiffs' Fourteenth Amendment rights, and by virtue
10 thereof, each defendant is liable to plaintiffs for damages, either nominal or
11 compensatory, according to proof.

12 40. Also, it is alleged that there was an agreement or understanding between
13 or among all defendants to engage in the conduct alleged herein to be wrongful,
14 and that there was the commission of overt acts in furtherance of said conspiracies,
15 to wit, illegally forcing plaintiffs and others to sleep on the floors.

16 41. The conspiracies were carried out by Baca and other Sheriff's
17 Department officers, knowing that persons unconstitutionally were being forced to
18 sleep on the floors.

19 42. The conspiracies were engaged in and the constitutional violations were
20 caused by the supervisor defendants failing and refusing to exercise appropriate
21 supervision over the Sheriff's Department and failing to appropriate sufficient
22 funds so that the Sheriff would be able timely to not have to force prisoners to
23 sleep on the floors.

24 43. The constitutional violations were caused by Baca not properly
25 allocating funds within his budget in order to prevent constitutional violations.

26 //

27 //

CLASS ACTION ALLEGATIONS

44. Plaintiffs are two members of the discrete class of persons whose defining characteristic is that they were forced to reside and sleep on the floor at the Los Angeles County jail by defendant Baca during the period January 1, 2006 to and including the time that will be set as the class closing date by the court.

44. This class potentially contains over 100 and as many as 100,000 members, and the class is so numerous so that joinder of all members is impracticable, and also, because defendants apparently have rendered difficult ascertaining all potential class members names by their disobedience of this court's May 17, 2005 and July 1, 2005 class identification orders in *Thomas v. Baca*, 04-08448-DDP(SHx), and it is impracticable to join all the members of the class in this action.

45. There are only common questions of fact and law with respect to all class members, as is the case in *Thomas*.

46. The claims made by the representative parties is typical of the claims of each class member.

47. The representatives of the class, plaintiffs, fairly will represent and adequately protect the interests of all class members, and will do so both vigorously and very zealously.

48. Prosecution of separate actions by individual class members would create a risk of inconsistent or varying adjudications with respect to class members, which would establish incompatible standards for parties opposing the class, and defendants have acted and will continue to act on grounds generally applicable to every class member, and the class questions not only predominate but are the only questions that exist.

49. Therefore, this action is maintainable under F.R. Civ. P. Rule 23(a), & (b)(1)(A),(B)(1),(2), and (3).

1 50. It is not possible accurately to measure the size of the class.

2 51. The nature of the notice to be provided to class members should be as
3 follows: defendants should be required to identify and to provide a suitable notice
4 to all class members.

5 **WHEREFORE**, plaintiffs request damages, as follows, according to proof,
6 against each defendant:

- 7 1. Nominal or general damages;
8 2. Punitive damages;
9 3. Interest from the date of the wrongful conduct;
10 4. Costs of suit, including attorneys' fees; and,
11 5. Such other relief as may be warranted or is just and proper.

12 **DEMAND FOR JURY**

13 Trial by jury of all issues is demanded.
14

15 **YAGMAN & YAGMAN & REICHMANN**
16 **ERWIN CHMERINSKY**

17 By: 
18

19 **STEPHEN YAGMAN**
20
21
22
23
24
25
26
27
28