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7 **IN THE UNITED STATES DISTRICT COURT**  
8 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

9 Christopher M. Kershner, an  
10 individual,  
11 Plaintiff  
12 v.  
13 Placer County, California, a county  
14 government and operator of the  
15 Placer County Sheriff's Office; and  
16 the following persons as individuals  
17 and in their capacity as officials,  
18 employees or contractors of Placer  
19 County:  
20 Sheriff Devon Bell,  
21 Megan Yaws, and  
22 Does 1 through 30,  
23 Defendants.

CASE NO.:

**COMPLAINT FOR INDIVIDUAL,  
SUPERVISORY, AND MUNICIPAL  
VIOLATIONS OF 42 U.S.C. §1983;  
STATE LAW CLAIMS FOR ASSAULT  
AND BATTERY; INTENTIONAL  
INFLECTION OF EMOTIONAL  
DISTRESS, VIOLATIONS OF  
CALIFORNIA CIVIL CODE §52, AND  
RESPONDEAT SUPERIOR LIABILITY**

**JURY TRIAL DEMANDED**

24 **I.**  
25 **INTRODUCTION**

26 This is a civil rights action arising out of the beating of Christopher M.  
27 Kershner in the Placer County Auburn jail. There was no purpose to the abuse. It  
28 was the result of poor emotional control, attitudes of superiority, and sadistic  
pleasure seeking by Placer County Sheriff's Office correctional officers.

Even more shocking is the systematic failure of the Placer County Sheriff's

1 Office to utilize its existing tools, such as an extensive video surveillance system at  
2 the Auburn Jail, to overcome the infamous “blue wall of silence” about this  
3 misconduct. For years, deputies at the Auburn Jail have been watching events like  
4 those described in this lawsuit on the in-house jail video system. Apparently,  
5 however, no one ever reported these abuses of inmates up the chain of command in  
6 the Placer County Sheriff’s Office. Why not?

7 It is very clear that there has been a complete failure in the administration of  
8 the Placer County Sheriff’s Office. It has failed to establish and/or enforce the  
9 necessary chain of command and institutional safeguards to prevent this type of  
10 abuse at the Auburn Jail in callous disregard of the rights of inmates. It is now  
11 time for the Defendants to restore the trust of the public that they serve.

12 **II.**  
13 **JURISDICTION AND VENUE**

14 1. Jurisdiction over the federal causes of action under Title 42 U.S.C. §1983 are  
15 proper in this Court under 28 U.S.C. §1331. Pendant Jurisdiction over the state  
16 causes of action is proper under Title 28 U.S.C. §1367(a) and Title 28 U.S.C.  
17 §1343(a)(3).

18 2. Venue is proper in this Court under 28 U.S.C. §1391(b) because all of the  
19 defendants reside, and the acts complained of occurred, within the territorial  
20 boundaries of this United States District Court.

21 3. Intra-district venue is proper in the Sacramento Division of this Court under  
22 Local Rule 120(d) because the acts and omissions that are the basis of this  
23 complaint occurred within Placer County.

24 **III.**  
25 **PARTIES**

26 4. Plaintiff Christopher M. Kershner (“Kershner”) is a single male, age 32.  
27 Kershner resides at 199.5 College Way, Auburn, CA 95603.

1 5. Defendant Placer County, California, operates the Placer County Sheriff's  
2 Office ("PCSO") which is responsible for the staffing and operation of the Auburn  
3 Jail.

4 6. Defendant Devon Bell is the Sheriff and is in command of the PCSO.

5 7. Defendant Megan Yaws ("Yaws") was employed by the PCSO and was  
6 working as a deputy sheriff at the Auburn Jail at the time of the events alleged  
7 below.

8 8. The true names and capacities of defendants sued herein as Does 1-30,  
9 inclusive, whether individual, corporate, or otherwise are unknown to Plaintiff who,  
10 therefore sues such defendants by such fictitious names. When their true names  
11 and capacities are ascertained, Plaintiff will amend this complaint by asserting  
12 their true names and capacities herein. Plaintiff is informed, believes and thereon  
13 alleges, that at all times herein mentioned, all defendants, including Does 1  
14 through 30, inclusive: (i) are qualified to do business in California, and/or did, in  
15 fact, do business in California; (ii) jointly perpetrated the acts herein with their  
16 co-defendants; (iii) were the successors in interest to, or agents, alter egos,  
17 principals, co-tenants, partners, joint venturers, or co-conspirators of their  
18 co-defendants in doing the things herein alleged; and/or (iv) were acting within the  
19 scope of their authority or in furtherance of a common scheme or design with the  
20 knowledge, permission, consent or ratification of their co-defendants in doing the  
21 things herein alleged, and therefore are liable, jointly and severally, for all damages  
22 and other relief or remedies sought by complainants in this action.

IV.  
BACKGROUND ALLEGATIONS

**Duties of Placer County and the Placer County Sheriff's Office**

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3 9. Defendant Placer County and the PCSO are obligated to have policies,  
4 practices, and procedures to: (a) prevent the unlawful use of force against detainees  
5 and inmates; and (b) provide timely and effectively response to the medical needs of  
6 inmates ("PPP's").

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8 10. Defendant Placer County and the PCSO are obligated to adequately train  
9 their deputy sheriffs and other correctional officers: (a) in the lawful use of force  
10 with detainees and inmates; and (b) the timely and effectively response to the  
11 medical needs of detainees and inmates.

12 11. Defendant Placer County and the PCSO are obligated to adequately  
13 supervise their deputy sheriffs and correctional officers to verify the effectiveness  
14 and enforcement of the PPPs and training in the: (a) lawful use of force with  
15 detainees and inmates; and (b) the timely and effectively response to the medical  
16 needs of detainees and inmates.

17 12. Defendant Placer County and the PCSO maintain a video surveillance  
18 system at the Auburn Jail ("VSS"). Plaintiff is informed and believes, and on that  
19 basis alleges, that the VSS was installed, in part, to verify that the PPPs are being  
20 followed, that training has been adequate, and that supervisors are monitoring the  
21 conduct of deputies and other correctional officers in the lawful use of force and the  
22 provision of timely and effective medical response for all inmates. Plaintiff is  
23 further informed and believes, and on that basis alleges, that the VSS also provides  
24 a ready means for the PCSO to investigate inmate complaints about these matters.

25 13. Plaintiff is informed and believes, and based thereon alleges, that there is a  
26 custom and practice among the deputies in the PCSO, known in the vernacular of  
27 police culture as the "blue wall of silence" or "blue code" to keep secret the errors,

1 misconduct, or crimes (including police brutality) of fellow officers. Under federal  
2 and state constitutional and statutory law, Defendant Placer County and the PCSO  
3 have a duty to break down this “blue wall of silence” among their deputies and  
4 correctional officers so that the unlawful use of force is reported to superiors  
5 without repercussions to non-offending deputies and correctional officers.

6 **The Unlawful Beating of Plaintiff at the Auburn Jail**

7 14. On or about February 18th, 2017 at approximately 10:30 pm, Plaintiff was  
8 arrested by the Auburn Police Department for allegedly shoving someone in a bar in  
9 Auburn, California. The Auburn Police took Plaintiff to the Placer County Jail in  
10 Auburn, California (“Auburn Jail”).

11 15. Upon entry to the Auburn Jail, Plaintiff was taken to the booking/intake area  
12 where he was patted down by a male PCSO deputy. Despite, the PCSO deputy  
13 conducting the pat down in an unnecessarily rough manner, Plaintiff cooperated  
14 fully. When Plaintiff briefly glanced at the PCSO deputy, the deputy became  
15 verbally abusive and snarled: "don't fucking look at me".

16 16. When the PCSO deputy was done patting down Plaintiff, another PCSO  
17 deputy took away Plaintiff’s blood pressure and anxiety medication.

18 17. At the completion of the intake process, two PCSO deputies (one male and  
19 one female) each grabbed Plaintiff by an arm, then torqued each arm up to the point  
20 of extreme pain, and then pushed Plaintiff out of the intake area, through a  
21 lobby-like area, and then into some type of special confinement cell. The cell had a  
22 bench on the right hand side, concrete floor, concrete block walls, and a small  
23 window in the door. Plaintiff is informed and believes on the basis of newspaper  
24 photographs, and on that basis alleges, that the female officer that held and twisted  
25 Plaintiff’s arm was Megan Yaws.

26 18. In addition to the two officers holding Plaintiff’s arms, there may have been  
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1 one or more additional deputies behind the deputies twisting Plaintiff's arms. Once  
2 inside the cell, the two deputies twisting Plaintiff's arms forced Plaintiff onto his  
3 knees and then pushed his face all the way to the floor. An unidentified deputy  
4 then put his/her knee into Plaintiff's back while both officers continued twisting  
5 Plaintiff's arms. Plaintiff's face was then forced onto the filthy cell floor. While the  
6 deputies were doing this to Plaintiff, they repeatedly said out loud how they were  
7 now in control of Plaintiff. Eventually, the deputies left the cell and then covered  
8 the window in the door so Plaintiff could not see out.

9 19. Plaintiff was in this special cell for hours. Plaintiff knocked repeatedly on the  
10 door pleading for his blood pressure medication (which Plaintiff was now late in  
11 taking and very much in need of). The various deputies just laughed at Plaintiff as  
12 he pleaded with them.

13 20. Finally, after many hours Plaintiff was released from the special cell and  
14 taken to an interview room where he was interviewed by a different female officer.  
15 This officer asked Plaintiff if he had any tattoos, what his birth date was, where  
16 Plaintiff lived, what was Plaintiff's sexual orientation, if Plaintiff was in a gang,  
17 and some other questions. During this process, the female officer interviewing  
18 Plaintiff was shocked to learned that Plaintiff had a masters degree.

19 21. Plaintiff was next moved to a holding cell with several other inmates.  
20 Plaintiff was in this holding cell for 2-3 hours, which was until about 8-9 am the  
21 next morning. Plaintiff used the phone in this cell to arrange bail and he was  
22 released later that morning.

23 22. As Plaintiff was being released, Plaintiff was given back his personal  
24 possessions, except for his medication and his pocket cash (about \$1,000). Plaintiff  
25 was told that he had to wait until the following Monday to get a check for the cash.  
26 As for the medication, Plaintiff was first told that he had to see someone from the  
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1 jail medical team. However, no one from the medical team came. Plaintiff's  
2 medication was finally returned to him just before he was released from the jail.

3 23. All charges against Plaintiff were subsequently dropped by the Placer County  
4 District Attorney.

5 **The Pattern of Unlawful Use of Force Against Inmates**

6 24. Plaintiff has become aware of other similar instances of unlawful use of force  
7 by PCSO deputies and other correctional officers against inmates at the Auburn  
8 Jail. Two examples of this pattern of wrongful conduct by Placer County and the  
9 PCSO are: (i) the claims by a Mr. Christopher Langley as set forth in the First  
10 Amended Complaint in civil action 2:17-CV-0760; and (ii) the claims by a Mr.  
11 Brendan Coleman as set forth in the Complaint in civil action 2:17-CV-01579.

12 25. Plaintiff is informed and believes, and on that basis alleges, that there has  
13 been a group of deputies working at the Auburn Jail that have frequently engaged  
14 in unlawful violence against inmates, sometimes individually and sometimes  
15 collectively. Plaintiff is further informed and believes, and on that basis alleges,  
16 that these deputies have abided by the "blue wall of silence" and neither stopped  
17 nor reported each other's unlawful conduct. Plaintiff is further informed and  
18 believes, and on that basis alleges, that Defendant Sheriff Devon Bell, has known  
19 about the "blue wall of silence" being followed by his deputies and officers and has  
20 been aware of many, if not all, of the complaints of unlawful violence by inmates.

21 26. On or about May 31, 2017, Defendant Devon Bell, speaking as the Sheriff of  
22 Placer County, gave a press conference at which he announced that three deputies  
23 who worked at the Auburn Jail had been terminated as employees and arrested and  
24 charged under PC §118.1 and PC §149 ("Press Conference"). A true and correct  
25 copy of the article in the Sacramento Bee about the Press Conference is attached  
26 hereto as Exhibit 3. At the Press Conference Sheriff Bell stated, *inter alia*:

1 "[the] conduct was limited to a very small number of people";

2 "We discovered this ourselves"; and

3 "We investigated it ... and we made arrests."

4 **The Timely Filing of a Tort Claim for Unlawful Use of Force**

5 27. On or about August 11, 2017, Plaintiff filed a claim against Placer County for  
6 the injuries he suffered as described in paragraphs 14-27. A true and correct copy  
7 of this tort claim is attached hereto as Exhibit 1.

8 28. More than forty-five days has passed since the filing of Plaintiff's tort claim  
9 and no written approval or denial of the claim has been received from Placer  
10 County. Consequently, the time for filing suit for any state law claim has been  
11 extended under Government Code § 945.6.



V  
Claims For Violation of Federal Civil Rights Under 42 U.S.C. §1983

FIRST CAUSE OF ACTION

Defendant Megan Yaws and Does 1 through 10

Individual Liability for Violation of Plaintiff's Constitutional Rights  
(Unlawful Use of Force) Under 42 U.S.C . §1983

29. Plaintiff hereby incorporates by reference paragraphs 1 through 26, inclusive, as though set forth fully herein.

30. Defendant Yaw and Does 1 through 10 committed acts of unwarranted violence upon Plaintiff Kershner as alleged in paragraphs 14-26. This was a violation of: (a) Plaintiff's substantive due process right to be free of punishment prior to adjudication of the charges for which Mr. Kershner was arrested; and/or (b) the U.S. Constitution's Eight Amendment prohibition of cruel and unusual punishment.

31. The foregoing conduct of Defendant Yaws and Does 1 through 10 were acts and omissions under the color of state law that were the direct and proximate cause of the violation of the constitutional rights of Plaintiff Kershner.

32. As a direct and proximate result of the wrongful conduct of Defendant Yaws and Does 1 through 10 as set forth above, Plaintiff Kershner has sustained general damages of an estimated \$500,000, according to proof, including, but not limited to: (a) the serious physical pain and suffering from the injuries to his body; (b) the severe emotional and mental distress caused by the rough handling, demeaning taunts, and being beaten while handcuffed, including feelings of helplessness, anxiety, humiliation, and the loss of a sense of security, dignity, and pride; (c) the cost of medical treatment; and (d) the cost of emotional and psychological therapy.

33. As a direct and proximate result of the foregoing conduct of Defendant Yaws and Does 1 through 10, Plaintiff Kershner has been forced to file this action under

1 42 U.S.C. §1983, and is entitled to recover his attorneys fees and costs under 42  
2 U.S.C. §1988.

3 34. The foregoing acts and omissions of Defendant Yaws and Does 1 through 10  
4 were committed with unbridled malice that was despicable and done with  
5 intentional disregard for Plaintiff Kershner's physical and mental person. As a  
6 result, punitive damages should be awarded against Defendant Yaws and Does 1  
7 through 10.

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9 **SECOND CAUSE OF ACTION**

10 **Defendant Sheriff Devon Bell and Does 11-20**

11 **Supervisory Liability for Violation Of Plaintiff's Constitutional Rights**  
12 **Under 42 U.S.C . §1983**

13 35. Plaintiff hereby incorporates by reference paragraphs 1 through 26,  
14 inclusive, as though set forth fully herein.

15 36. Defendant Sheriff Devon Bell and Does 11-20 are Placer County and/or PCSO  
16 employees or contractors that have responsibility for the: (a) supervision and  
17 training of PCSO deputies and other correctional officers in the lawful use of force  
18 against detainees in the field and inmates at the Auburn Jail; (b) enforcement of the  
19 PPPs concerning the lawful use of force against detainees in the field and inmates  
20 at the Auburn Jail; (c) evaluation of the effectiveness of the PPPs concerning the  
21 lawful use of force against detainees in the field and against inmates at the Auburn  
22 Jail; and (d) investigation of inmate complaints about unlawful use of force against  
23 detainees in the field and inmates at the Auburn Jail ("Supervisory Duties"). At all  
24 relevant times, Defendant Sheriff Devon Bell and Does 11-20 had a variety of tools  
25 and means for performing the Supervisory Duties, including the VSS, that were  
26 sufficient to the task.

27 37. There has been an ongoing pattern of complaints by detainees in the field and  
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1 inmates at the Auburn Jail about the unlawful use of force against them as alleged  
2 in paragraphs 24-25. These inmate complaints put Defendant Sheriff Devon Bell  
3 and Does 11-20 on notice that there was a pattern of unlawful use of force among  
4 the deputies and correctional officers at the Auburn Jail.

5 38. Plaintiff is informed and believes, and on that basis alleges, that despite  
6 having the tools and means for fulfilling their Supervisory Duties, and despite  
7 having been put on notice that there was a problem with the unlawful use of force  
8 at the Auburn Jail, Defendant Sheriff Devon Bell and Does 11-20 repeatedly failed  
9 to perform their Supervisory Duties. Plaintiff is further informed and believes, and  
10 on that basis alleges, that if Defendant Sheriff Devon Bell and Does 11-20 had  
11 performed the Supervisory Duties, they would have learned about and been able to  
12 prevent multiple instances of unlawful use of force against detainees and inmates,  
13 including the unlawful use of force against Plaintiff Kershner.

14 39. Plaintiff is informed and believes, and on that basis alleges, that Defendant  
15 Sheriff Devon Bell and Does 11-20 knew about the “blue wall of silence” or “blue  
16 code” among the PCSO deputies and other correctional officers. This awareness of  
17 the “blue wall of silence” should have caused Defendant Sheriff Devon Bell and  
18 Does 11-20 to take extra measures in performing their Supervisory Duties to  
19 prevent the unlawful use of force against inmates. Plaintiff is informed and  
20 believes, and on that basis alleges, that Defendant Sheriff Devon Bell and Does 11-  
21 20 failed to eliminate or even minimize the “blue wall of silence” so that instances of  
22 unlawful use of force against detainees in the field and inmates at the Auburn Jail  
23 would be reported, including the unlawful use of force against Plaintiff Kershner.

24 40. Plaintiff is informed and believes, and on that basis alleges, that Defendant  
25 Sheriff Devon Bell and Does 11-20 knew about the unlawful use of force against  
26 inmates against detainees in the field at the Auburn Jail, including the unlawful  
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1 use of force against Plaintiff Kershner. Plaintiff is informed and believes, and on  
2 that basis alleges, that Defendant Sheriff Devon Bell and Does 11-20 engaged in an  
3 active cover up of the unlawful use of force at the Auburn Jail and that the Press  
4 Conference was part of an active effort to conceal the unlawful use of force against  
5 inmates from the public, including the unlawful use of force against Plaintiff  
6 Kershner, Mr. Langley, Mr. Coleman and others, all of which had been reported to  
7 these Defendants months before the Press Conference.

8 41. The foregoing acts and omissions of Defendant Sheriff Devon Bell and Does  
9 11-20 were done under the color of state law. These acts and omissions were done  
10 with callous disregard and/or deliberate indifference for the rights of inmates at the  
11 Auburn Jail, including Plaintiff Kershner and were the direct and proximate cause  
12 of the violation of the constitutional rights of Plaintiff Kershner.

13 42. As a direct and proximate result of the wrongful conduct of Defendant Sheriff  
14 Devon Bell and Does 11-20 as set forth above, Plaintiff Kershner has sustained  
15 general damages of an estimated \$500,000, according to proof, including, but not  
16 limited to: (a) the serious physical pain and suffering from the injuries to his body;  
17 (b) the severe emotional and mental distress caused by the rough handling,  
18 demeaning taunts, and being beaten while handcuffed, including feelings of  
19 helplessness, anxiety, humiliation, and the loss of a sense of security, dignity, and  
20 pride; (c) the cost of medical treatment; and (d) the cost of emotional and  
21 psychological therapy.

22 43. As a direct and proximate result of the foregoing conduct of Defendant Sheriff  
23 Devon Bell and Does 11-20, Plaintiff Kershner has been forced to file this action  
24 under 42 U.S.C. §1983, and is entitled to recover his attorneys fees and costs under  
25 42 U.S.C. §1988.

26 44. The foregoing acts and omissions of Defendant Sheriff Devon Bell and Does  
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1 11-20 were committed with unbridled malice that was despicable and done with  
2 intentional disregard for Plaintiff Kershner's physical and mental person. As a  
3 result, punitive damages should be awarded against Defendant Sheriff Devon Bell  
4 and Does 11-20.

5 **THIRD CAUSE OF ACTION**

6 **Defendants Placer County, the PCSO and Does 21-30**

7 **Municipal Liability for Violation Of Plaintiff's Constitutional Rights**  
8 **Under 42 U.S.C . §1983**

9 45. Plaintiff hereby incorporates by reference paragraphs 1 through 26, inclusive,  
10 as though set forth fully herein.

11 46. Plaintiff is informed and believes, and on that basis alleges, that there has  
12 been a pattern of unlawful use of force against inmates by PCSO deputies and/or  
13 other correctional officers against detainees in the field and inmates at the Auburn  
14 Jail, including the allegations by Plaintiff Kershner, Mr. Langley on his civil action  
15 2:17-CV-0760, Mr. Coleman on his civil action 2:17-CV-01579, and those instances  
16 publicly disclosed by Defendant Sheriff Devon Bell at the Press Conference.

17 47. Plaintiff is informed and believes, and on that basis alleges, that Defendants  
18 Placer County, the PCSO and Does 21-30 have had full knowledge of this pattern of  
19 unlawful use of force against inmates because they have received numerous  
20 complaints and tort claims for unlawful use of force against inmates over a period of  
21 years, including the complaints and claims by Plaintiff Kershner, Mr. Langley, Mr.  
22 Coleman, and others.

23 48. Plaintiff is informed and believes, and on that basis alleges, that Defendants  
24 Placer County, the PCSO and Does 21-30 have knowingly failed to properly  
25 investigate such complaints or cause Placer County, the PCSO, and/or Does 21-30 to  
26 conduct a thorough investigation into the complaints and make a full and complete  
27 report to the county administration and the public.

1 49. Plaintiff is informed and believes, and on that basis alleges, that Defendants  
2 Placer County, the PCSO, and Does 21-30 have routinely denied any allegations of  
3 unlawful use of force against inmates without a thorough investigation.

4 50. Plaintiff is informed and believes, and on that basis alleges, that Defendants  
5 Placer County, the PCSO, and Does 21-30 have known about the “blue wall of  
6 silence” or “blue code” among PCSO deputies and other correctional officers. This  
7 awareness of the “blue wall of silence” should have caused Defendants Placer  
8 County and the PCSO to take extra measures to investigate and prevent the  
9 unlawful use of force against inmates. Plaintiff is informed and believes, and on  
10 that basis alleges, that Defendants Placer County, the PCSO, and Does 21-30 failed  
11 to take any measures to eliminate or even minimize the “blue wall of silence”.

12 51. Plaintiff is informed and believes, and on that basis alleges, that Defendants  
13 Placer County, the PCSO and Does 21-30 have failed to effectively supervise the  
14 Defendants Sheriff Devon Bell and Does 21-30 about the use of force against  
15 detainees and inmates.

16 52. Plaintiff is informed and believes, and on that basis alleges, that Defendants  
17 Placer County, the PCSO, and Does 21-30 have failed to provide for adequate  
18 training of PCSO deputies and correctional officers in the lawful use of force against  
19 detainees and inmates.

20 53. The foregoing acts and omission by Defendants Placer County, the PCSO,  
21 and Does 21-30 have become the *de facto* customs, policies, and practices of  
22 Defendants Placer County, the PCSO and Does 21-30. These customs, policies, and  
23 practices constitute a deliberate indifference to, or indeed a callous disregard for,  
24 the constitutional rights of detainees and inmates, including Plaintiff Kershner, to  
25 be free from the unlawful use of force at the Auburn Jail.

26 54. The foregoing pattern of wrongful conduct by Defendants Placer County, the  
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1 PCSO, and Does 21-30 made it far more likely that a PCSO deputy or correctional  
2 officer would violate the right of a detainee or inmate, including that of Plaintiff, to  
3 be free from unwarranted bodily harm and cruel and unusual punishment as  
4 protected by the 4<sup>th</sup>, 8<sup>th</sup>, and/or the 14<sup>th</sup> Amendment to the United States  
5 Constitution.

6 55. The foregoing acts and omissions by Defendants Placer County, the PCSO,  
7 and Does 21-30 were done under the color of state law and were the direct and  
8 proximate cause of the violation of the constitutional rights of Plaintiff Kershner.

9 56. As a direct and proximate result of the foregoing conduct of Defendants  
10 Placer County, the PCSO and Does 21-30, Plaintiff Kershner has sustained general  
11 damages of an estimated \$500,000, according to proof, including, but not limited to:  
12 (a) the serious physical pain and suffering from the injuries to his body; (b) the  
13 severe emotional and mental distress caused by the rough handling, demeaning  
14 taunts, and being beaten while handcuffed, including feelings of helplessness,  
15 anxiety, humiliation, and the loss of a sense of security, dignity, and pride; (c) the  
16 cost of medical treatment; and (d) the cost of emotional and psychological therapy.

17 57. As a direct and proximate result of the foregoing conduct of Defendants  
18 Placer County, the PCSO, and Does 21-30, Plaintiff Kershner has been forced to file  
19 this action under 42 U.S.C. §1983, and is entitled to recover his attorneys fees and  
20 costs under 42 U.S.C. §1988.

**FOURTH CAUSE OF ACTION**

**Defendant Placer County and the PCSO**

**Municipal Liability for Violation of Plaintiff's Constitutional Rights  
Under 42 U.S.C . §1983**

**(Deliberate and Callous Disregard for Inmate Medical Problems)**

58. Plaintiff hereby incorporates by reference paragraphs 1 through 26, inclusive, as though set forth fully herein.

59. Placer County and the PCSO have failed to adequately establish policies and procedures ("PPs") regarding the timely and effective provision of medical services for inmates that are adequate for protecting the right of inmates to medical care, including a failure to establish PPs that protect the right of inmates to prescription medication for existing medical conditions.

60. Placer County and the PCSO have failed to adequately train its personnel regarding the timely and effective provision of medical care for inmates, including the right of inmates to prescription medication for existing medical conditions.

61. Placer County and the PCSO have failed to adequately monitor or enforce policies and procedures for the timely and effective provision of medical care for inmates, including the right of inmates to prescription medication for existing medical conditions.

62. Placer County and the PCSO have failed to adequately supervise its personnel regarding the timely and effective provision of medical care for inmates, including the right of inmates to prescription medication for existing medical conditions.

63. It was known and/or obvious to Placer County and the PCSO that the acts and omissions described in paragraphs 59-62 would be likely to cause serious violation of the constitutional rights of inmates to timely and effective medical care.



1 64. The acts and omissions in paragraphs 59-62 were done under the color of  
2 state law and they were the direct and proximate cause of the violation of the  
3 constitutional rights of Plaintiff. These acts and omissions continued for at least a  
4 year prior to the institution of this action and Plaintiff is informed and beleives, and  
5 on that basis alleges, that these acts and omissions continue until the present time.  
6 As a consequence, the acts and omissions of Placer County and the PCSO in  
7 paragraphs 59-62 constitute deliberate indifference to, and a callous disregard for,  
8 the constitutional rights of inmates in Placer County jails.

9 65. As a direct and proximate result of the wrongful acts and omissions of Placer  
10 County and the PCSO as set forth above, Plaintiff has sustained general damages of  
11 an estimated \$100,000, according to proof, including, but not limited to: (a) the  
12 physical, emotional, and mental distress, including feelings of helplessness, anxiety,  
13 humiliation, and the loss of a sense of security, dignity, and pride.

14 66. As a direct and proximate result of the foregoing conduct of Placer County  
15 and the PCSO, Plaintiff has been forced to file this action under 42 U.S.C. §1983,  
16 and is entitled to recover his attorneys fees and costs under 42 U.S.C. §1988.

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VI.  
STATE LAW CLAIMS

FIFTH CAUSE OF ACTION

Defendants Yaws and Does 1 through 10

Assault and Battery (California Civil Code § 43)

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67. Plaintiff hereby incorporates by reference paragraphs 1 through 28, inclusive, as though set forth fully herein.

68. Defendant Yaws and Does 1 through 10, with intent to cause harm, committed the acts described in paragraphs 14-26.

69. Plaintiff Kershner did not consent to the acts committed by Defendant Yaws and Does 1 through 10. Indeed, Plaintiff Kershner was at all times unarmed, cooperative, and posed no threat to Defendant Yaws and Does 1 through 10.

70. As the direct result of the foregoing acts of Defendant Yaws and Does 1 through 10, Plaintiff Kershner was seriously harmed in body and mind.

71. As a direct and proximate result of the foregoing conduct of Defendant Yaws and Does 1 through 10, Plaintiff Kershner has sustained general damages of an estimated \$500,000, according to proof, including, but not limited to: (a) the serious physical pain and suffering from the injuries to his body; (b) the severe emotional and mental distress caused by the rough handling, demeaning taunts, and being beaten while handcuffed, including feelings of helplessness, anxiety, humiliation, and the loss of a sense of security, dignity, and pride; (c) the cost of medical treatment; and (d) the cost of emotional and psychological therapy.

72. The foregoing acts and omissions of Defendant Yaws and Does 1 through 10 were committed with unbridled malice that was despicable and done with intentional disregard for Plaintiff's physical and mental person. As a result, punitive damages should be awarded against Defendant Yaws and Does 1 through 10.

**SIXTH CAUSE OF ACTION**

**Defendants Yaws and Does 1 through 10**

**Intentional Infliction of Emotional Distress**

1  
2  
3  
4 73. Plaintiff hereby incorporates by reference paragraphs 1 through 28,  
5 inclusive, as though set forth fully herein.

6 74. The conduct of Defendant Yaws and Does 1 through 10 described in  
7 paragraphs 14-26 was extreme and outrageous action directed at Plaintiff that was  
8 calculated to cause Plaintiff severe emotional distress, or was done with substantial  
9 certainty that Plaintiff would suffer severe emotional injury.

10 75. As the direct result of the foregoing conduct of Defendant Yaws and Does 1  
11 through 10, Plaintiff Kershner suffered severe emotional and psychological damage.

12 76. As a direct and proximate result of the foregoing conduct of Defendant Yaws  
13 and Does 1 through 10, Plaintiff Kershner has sustained general damages of an  
14 estimated \$500,000, according to proof, including, but not limited to: (a) the serious  
15 physical pain and suffering from the injuries to his body; (b) the severe emotional  
16 and mental distress caused by the rough handling, demeaning taunts, and being  
17 beaten while handcuffed, including feelings of helplessness, anxiety, humiliation,  
18 and the loss of a sense of security, dignity, and pride; (c) the cost of medical  
19 treatment; and (d) the cost of emotional and psychological therapy.

20 77. The foregoing acts and omissions of Defendant Yaws and Does 1 through 10  
21 were committed with unbridled malice that was despicable and done with  
22 intentional disregard for Plaintiff's physical and mental person. As a result,  
23 punitive damages should be awarded against Defendant Yaws and Does 1 through  
24 10.

**SEVENTH CAUSE OF ACTION**

**Defendants Yaws and Does 1 through 10**

**Negligence**

1  
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3  
4 78. Plaintiff hereby incorporates by reference paragraphs 1 through 28,  
5 inclusive, as though set forth fully herein.

6 79. Defendant Yaws and Does 1 through 10 each held positions of authority over  
7 Plaintiff that gave them real authority to affect Plaintiff's person. As a consequence  
8 of this authority, Defendant Yaws and Does 1 through 10 had a duty to use  
9 reasonable force only as necessary to obtain Plaintiff's compliance with lawful  
10 orders.

11 80. Defendant Yaws and Does 1 through 10 breached the foregoing duty by  
12 committing the knowing acts described in paragraphs 14-26.

13 81. As the direct result of the breach of duty by Defendant Yaws and Does 1  
14 through 10, Plaintiff Kershner suffered serious personal injury.

15 82. As a direct and proximate result of the foregoing conduct of Defendant Yaws  
16 and Does 1 through 10, Plaintiff Kershner has sustained general damages of an  
17 estimated \$500,000, according to proof, including, but not limited to: (a) the serious  
18 physical pain and suffering from the injuries to his body; (b) the severe emotional  
19 and mental distress caused by the rough handling, demeaning taunts, and being  
20 beaten while handcuffed, including feelings of helplessness, anxiety, humiliation,  
21 and the loss of a sense of security, dignity, and pride; (c) the cost of medical  
22 treatment; and (d) the cost of emotional and psychological therapy.

**EIGHTH CAUSE OF ACTION**

**Defendants Yaws and Does 1 through 10**

**Interference With Plaintiff's Constitutional Rights  
Under California Civil Code 52.1(b)**

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4  
5 83. Plaintiff hereby incorporates by reference paragraphs 1 through 28,  
6 inclusive, as though set forth fully herein.

7 84. Defendant Yaws and Does 1 through 10 committed unwarranted acts of  
8 violence upon Plaintiff Kershner as alleged in paragraphs 14-26. These acts were in  
9 violation of Plaintiff's rights under the laws and constitution of the United States  
10 and/or the laws and constitution of the State of California.

11 86. As a direct and proximate result of the foregoing conduct of Defendant Yaws  
12 and Does 1 through 10, Plaintiff Kershner has sustained general damages of an  
13 estimated \$500,000, according to proof, including, but not limited to: (a) the serious  
14 physical pain and suffering from the injuries to his body; (b) the severe emotional  
15 and mental distress caused by the rough handling, demeaning taunts, and being  
16 beaten while handcuffed, including feelings of helplessness, anxiety, humiliation,  
17 and the loss of a sense of security, dignity, and pride; (c) the cost of medical  
18 treatment; and (d) the cost of emotional and psychological therapy.

19 87. Pursuant to California Civil Code §52(a) and §52.1(b), Plaintiff Kershner is  
20 entitled to treble the amount of consequential damages that are proven.

21 88. As the direct and proximate result of the foregoing conduct of Defendant  
22 Yaws and Does 1 through 10, Plaintiff Kershner is entitled to recover his costs and  
23 attorneys fees under Civil Code § 52(b) and § 52.1(h).  
24  
25  
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27  
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**NINTH CAUSE OF ACTION**

**Defendants Devon Bell and Does 11 through 20**

**Interference With Plaintiff's Constitutional Rights  
Under California Civil Code 52.1(b)**

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5 89. Plaintiff hereby incorporates by reference paragraphs 1 through 28 and 36,  
6 inclusive, as though set forth fully herein.

7 90. There has been an ongoing pattern of complaints by detainees in the field and  
8 inmates at the Auburn Jail about the unlawful use of force against them as alleged  
9 in paragraphs 24-25. These inmate complaints put Defendant Sheriff Devon Bell  
10 and Does 11-20 on notice that there was a pattern of unlawful use of force among  
11 the deputies and correctional officers at the Auburn Jail in violation of the rights of  
12 inmates under the laws and constitution of the United States and/or the laws and  
13 Constitution of the State of California.

14 91. Plaintiff is informed and believes, and on that basis alleges, that despite  
15 having the tools and means for fulfilling their Supervisory Duties, and despite  
16 having been put on notice that there was a problem with the unlawful use of force  
17 at the Auburn Jail, Defendant Sheriff Devon Bell and Does 11-20 repeatedly failed  
18 to perform their Supervisory Duties in a manner to prevent the unlawful use of  
19 force against Plaintiff Kershner in violation of his rights under the laws and  
20 constitution of the United States and/or the laws and constitution of the State of  
21 California.

22 92. Plaintiff is informed and believes, and on that basis alleges, that Defendant  
23 Sheriff Devon Bell and Does 11-20 knew about the "blue wall of silence" or "blue  
24 code" among the PCSO deputies and other correctional officers. This awareness of  
25 the "blue wall of silence" should have caused Defendant Sheriff Devon Bell and  
26 Does 11-20 to take extra measures in performing their Supervisory Duties to  
27 prevent the unlawful use of force against inmates. Plaintiff is informed and  
28

1 believes, and on that basis alleges, that Defendant Sheriff Devon Bell and Does 11-  
2 20 failed to eliminate or even minimize the “blue wall of silence” in a manner to  
3 prevent the unlawful use of force against Plaintiff Kershner in violation of his  
4 rights under the laws and constitution of the United States and/or the laws and  
5 constitution of the State of California.

6 93. Plaintiff is informed and believes, and on that basis alleges, that Defendant  
7 Sheriff Devon Bell and Does 11-20 engaged in an active cover up of the unlawful use  
8 of force against inmates and detainees in the field and that the Press Conference  
9 was part of an active effort to conceal from the public the violations of the rights of  
10 inmates and detainees under the laws and constitution of the United States and/or  
11 the laws and constitution of the State of California, including the rights of Plaintiff  
12 Kershner, Mr. Langley, Mr. Coleman and others, all of which had been reported to  
13 Defendant Sheriff Devon Bell and Does 11-20 months before the Press Conference.

14 94. As a direct and proximate result of the foregoing acts and omissions of  
15 Defendant Devon Bell and Does 11-20, Plaintiff Kershner has sustained general  
16 damages of an estimated \$500,000, according to proof, including, but not limited to:  
17 (a) the serious physical pain and suffering from the injuries to his body; (b) the  
18 severe emotional and mental distress caused by the rough handling, demeaning  
19 taunts, and being beaten while handcuffed, including feelings of helplessness,  
20 anxiety, humiliation, and the loss of a sense of security, dignity, and pride; (c) the  
21 cost of medical treatment; and (d) the cost of emotional and psychological therapy.

22 95. Pursuant to California Civil Code §52(a) and §52.1(b), Plaintiff Kershner is  
23 entitled to treble the amount of consequential damages that are proven.

24 96. As the direct and proximate result of the foregoing acts and omissions of  
25 Defendant Devon Bell and Does 11-20, Plaintiff Kershner is entitled to recover his  
26 costs and attorneys fees under Civil Code § 52(b) and § 52.1(h).

**TENTH CAUSE OF ACTION**

**Defendants Placer County and the PCSO**

**Respondent Superior Liability Under California  
Government Code §815.2(a) And/Or 815.6**

97. Plaintiff hereby incorporates by reference paragraphs 1 through 28, inclusive, as though set forth fully herein.

98. Defendants Placer County and the PCSO as the employer of Defendants Sheriff Devon Bell, Megan Yaws, and Does 1-30 have full authority to train, supervise, and direct all of the actions of each of these defendants. Defendants Devon Bell, Megan Yaws, and Does 1 through 30, in their official capacity and in the performance of their duties, engaged in the acts and omissions alleged in the Fifth through Ninth causes of action.

99. Under California Government Code §815.2(a), Placer County and the PCSO are liable for any injury that is proximately caused by the act or omission of an employee within the scope of the employee's duties, including all of the acts and omissions alleged in the Fifth through Ninth causes of action.

100. As a direct and proximate result of the foregoing acts and omissions of Defendant Yaws and Does 1 through 40, Plaintiff Kershner has sustained general damages of an estimated \$500,000, according to proof, including, but not limited to: (a) the serious physical pain and suffering from the injuries to his body; (b) the severe emotional and mental distress caused by the rough handling, demeaning taunts, and being beaten while handcuffed, including feelings of helplessness, anxiety, humiliation, and the loss of a sense of security, dignity, and pride; (c) the cost of medical treatment; and (d) the cost of emotional and psychological therapy.

**VII.**



**PRAYER**

**Wherefore**, Plaintiff prays for judgment against Defendants as follows:

1. For general, consequential, and special damages in the sum set forth in each count according to proof;
2. For punitive damages in a sum according to proof in Counts 1-2, 5-6;
3. For reasonable attorney's fees and costs pursuant to 42 U.S.C. §1988 in Counts 1-4;
4. For reasonable attorney's fees and costs pursuant to California Civil Code §51 and §52 in Counts 8-9;
5. For treble damages (3x consequential) in Counts 8-9;
6. For cost of suit herein incurred for all counts; and
7. For such other and further relief as the Court deems just and proper.

\\

Dated: November 2, 2017

Respectfully,

By: /s/ Patrick H. Dwyer  
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