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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
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11 RONNIE O. BROWN,

12 Plaintiff,

13 vs.

14 JOHN DOE, et al.,

15 Defendants.
16

) Case No. EDCV11-1855-CAS (DTB)

) ORDER TO SHOW CAUSE

17
18 Plaintiff, while a prisoner at the West Valley Detention Center located in
19 Rancho Cucamonga, California, lodged for filing a pro se complaint on October
20 26, 2011, in the Southern District of California. On November 14, 2011, the matter
21 was transferred to the Central District of California, Eastern Division. On November
22 21, 2011, plaintiff filed a Request to Proceed Without Prepayment of Filing Fees
23 With Declaration in Support. On December 8, 2011, the Court granted plaintiff leave
24 to proceed in forma pauperis. Plaintiff's Complaint was filed in this action on
25 December 8, 2011.

26 Pursuant to the Prison Litigation Reform Action, a prisoner shall not be
27 authorized pursuant to 28 U.S.C. § 1915(a)(1) to commence an action or proceeding
28 without payment of the full filing fee if such prisoner "has, on 3 or more prior

1 occasions, while incarcerated or detained in any facility, brought an action . . . that
2 was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim
3 upon which relief may be granted.” 28 U.S.C. § 1915(g).

4 The Court has independently reviewed its docket and has ascertained that
5 plaintiff has previously filed numerous federal lawsuits, and that in at least four (4)
6 of these prior cases, the Court has dismissed plaintiff’s actions on the grounds that
7 the complaint was frivolous, malicious, or failed to state a claim upon which relief
8 may be granted. Specifically, the Court has ascertained the following: (1) In Ronnie
9 O’Neal Brown v. Leroy Baca, et al., CV07-819-CAS (DTB) plaintiff, while detained
10 at California State Prison - Folsom, lodged for filing this action. After plaintiff filed
11 his Third Amended Complaint, the action was dismissed for failure to state a claim
12 by Judgment dated January 15, 2010, whereby the District Judge adopted the findings
13 of the Report and Recommendation recommending dismissal with prejudice for
14 failure to state a claim (see Exhibit “A” attached hereto); (2) in Ronnie O. Brown v.
15 Dept. Adult Parole Operations, et al., EDCV08-11-UA (JWJ) plaintiff, while detained
16 at California Institution for Men - Chino, lodged for filing this action. On January 31,
17 2008, plaintiff was denied in forma pauperis status on the grounds that the claims in
18 the complaint were legally and/or factually patently frivolous (see Exhibit “B”
19 attached hereto) (see also O’Neal v. Price, 531 F.3d 1146, 1155 (9th Cir. 2008)
20 (dismissal of an in forma pauperis application on grounds claims in action are
21 frivolous constitutes a “strike” under 28 U.S.C. § 1915g); (3) in Ronnie O. Brown v.
22 County of San Bernardino Alternative Defense Panel, et al., EDCV08-1295-UA (JWJ)
23 plaintiff, while a state prisoner at North Kern State Prison, lodged for filing this
24 action. On October 6, 2008, plaintiff was denied in forma pauperis status on the
25 grounds that the claims in the complaint were legally and/or factually patently
26 frivolous (see Exhibit “C” attached hereto) (see also O’Neal 531 F.3d at 1155); and
27 (4) in Ronnie O. Brown v. Lee Baca, et al., CV08-6311-UA (JWJ) plaintiff, also
28 while a state prisoner at North Kern State Prison, lodged for filing this action. On

1 October 3, 2008, plaintiff was denied in forma pauperis status on the grounds that the
2 claims in the complaint were legally and/or factually patently frivolous (see Exhibit
3 “D” attached hereto) (see also O’Neal, 531 F.3d at 1155)

4 As referenced above, in each of the cases cited herein, plaintiff alleged that he
5 was incarcerated at the time each of the actions referenced herein were filed.

6 Accordingly, on or before **February 17, 2012**, plaintiff is ORDERED to show
7 cause as to why the order granting him in forma pauperis status in this matter should
8 not be vacated pursuant to 28 U.S.C. § 1915(g), and that the action dismissed without
9 prejudice pending payment of the full filing fee of \$350.00.

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11 DATED: February 2, 2012



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15 **DAVID T. BRISTOW**
16 **UNITED STATES MAGISTRATE JUDGE**
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EXHIBIT “A”

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

RONNIE O. BROWN,

Plaintiff,

vs.

LEROY BACA, et al.,

Defendants.

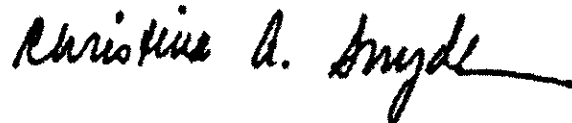
Case No. CV 07-819-CAS (DTB)

J U D G M E N T

Pursuant to the Order Adopting Findings, Conclusions and Recommendations of
United States Magistrate Judge,

IT IS HEREBY ADJUDGED that defendant's Motion to Dismiss is granted and
Judgment be entered dismissing this action without leave to amend and with prejudice.

DATED: January 15, 2010



CHRISTINA A. SNYDER
UNITED STATES DISTRICT JUDGE

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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10

11 RONNIE O. BROWN,

12 Plaintiff,

13 vs.

14 LEROY BACA, et al.,

15 Defendants.
16

) Case No. CV 07-819-CAS (DTB)

) REPORT AND RECOMMENDATION
) OF UNITED STATES MAGISTRATE
) JUDGE

17 This Report and Recommendation is submitted to the Honorable Christina A.
18 Snyder, United States District Judge, pursuant to 28 U.S.C. § 636 and General Order
19 05-07 of the United States District Court for the Central District of California.
20

21 PROCEEDINGS

22 Plaintiff, a California prisoner presently incarcerated at the California State
23 Prison in Lancaster, filed this pro se civil rights action on February 7, 2007, after
24 being granted leave to proceed in forma pauperis. As best the Court can glean from
25 plaintiff's allegations, the gravamen of plaintiff's claims is that he was denied
26 medication and/or medical treatment for approximately 28 days while plaintiff
27 temporarily was being detained by the Los Angeles County Sheriff's Department
28 ("LACSD"). Plaintiff alleges that, as a result, he suffered severe brain damage.

1 On July 17, 2009, plaintiff filed a Third Amended Complaint (“TAC”), the
2 operative pleading herein. On July 27, 2009, the matter was transferred to this Court’s
3 calendar. In the TAC, plaintiff purports to name as defendants the County of Los
4 Angeles, Sheriff Leroy Baca, and J. McKoun. The only defendant, however, who has
5 been served herein is Sheriff Baca. Plaintiff purports to raise four claims against
6 unspecified defendants: (1) the denial of adequate medical treatment pursuant to the
7 Eighth and Fourteenth Amendments¹; (2) denial of procedural due process pursuant
8 to the Fourteenth Amendment in connection with LACSD policies regarding prisoner
9 requests for medical care and the filing of grievances; (3) the denial of plaintiff’s
10 “right to be heard by prison grievance” purportedly pursuant to the First, Eighth, and
11 Fourteenth Amendments; and (4) the denial of accommodation for plaintiff’s
12 blindness pursuant to Title II of the Americans with Disabilities Act (“ADA”).
13 Plaintiff seeks only compensatory and punitive damages.

14 On July 28, 2009, defendant Sheriff Baca filed a Motion to Dismiss pursuant
15 to Rule 12(b)(6) together with an unenumerated Rule 12(b) Motion with respect to the
16 issue of exhaustion (“Motion”). The Motion is accompanied by a Memorandum of
17 Points and Authorities (“Motion Mem.”) and a Declaration of Deputy Christina
18 Shilinga (“Decl. Shilinga”) with attached exhibits. Defendant contends that the TAC
19 should be dismissed for the following reasons: (a) plaintiff has failed to allege Sheriff
20 Baca’s involvement in the claimed constitutional violations; (b) plaintiff failed to
21 exhaust his administrative remedies for some of his claims; and (c) plaintiff cannot
22 state a claim pursuant to the ADA. Plaintiff filed a 48-page opposition (“Opp.”) on
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24
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26 ¹ The Court notes that, although plaintiff was a detainee at the time of the
27 alleged incidents, his claims of deliberate indifference to his medical needs arise
28 pursuant to the Eighth Amendment because, according to plaintiff, he was at that time
a state prisoner in the temporary custody of the LACSD. (See TAC, Ex. A).

1 September 11, 2009,² accompanied by plaintiff's declaration and attached exhibits
2 pertaining to the issue of exhaustion of administrative remedies. Defendants filed a
3 reply thereto on September 25, 2009.

4 For the reasons set forth below, the Court now recommends that the Motion be
5 granted, and that the TAC be dismissed without leave to amend.

6
7 **STANDARD OF REVIEW**

8 A complaint may be dismissed as a matter of law for failure to state a claim for
9 two reasons: (1) lack of a cognizable legal theory; or (2) insufficient facts under a
10 cognizable legal theory. See Balistreri v. Pacifica Police Dep't, 901 F.2d 696, 699
11

12 ² On September 21, 2009, plaintiff filed a "Notice of Supplemental
13 Memorandum of Points and Authorities to Defendants [sic] Motion to Dismiss the
14 Third Amended Complaint" ("Supp. Auth."). Because plaintiff failed to seek leave
15 of Court to file supplemental points and authorities as is required by the Federal Rules
16 of Civil Procedure, the Court advised plaintiff in a Minute Order of October 1, 2009,
17 that it would not consider the Supp. Auth. in ruling on defendant's Motion. The
18 Court, however, has examined plaintiff's Supp. Auth., and it appears primarily to
19 assert the incorrect argument that defendant is unable to raise plaintiff's purported
20 failure to exhaust in a motion to dismiss. Failure to exhaust, however, is "subject to
21 an unenumerated Rule 12(b) motion." Wyatt v. Terhune, 315 F.3d 1108, 1119 (9th
22 Cir. 2003) (citing Ritza v. International Long-shoremen's and Warehousemen's
23 Union, 837 F.2d 365, 368 (9th Cir. 1988)). Further, in his Opposition, plaintiff
24 appears to be raising additional claims pursuant to state law. (See Opp. at 8-9).
25 Because an opposition is not an appropriate place for a plaintiff to raise additional
26 claims, and in view of the Court's recommendation, below, that plaintiff's federal
27 claims be dismissed without leave to amend, the Court recommends that supplemental
28 jurisdiction be declined over any possible state law claims plaintiff may be purporting
to allege against any of the named defendants. See 28 U.S.C. § 1367(c)(3)(if the
district court has dismissed all claims over which it has original jurisdiction, the court
has discretion to decline supplemental jurisdiction over plaintiff's state law claims);
see also Executive Software North America, Inc. v. U.S. Dist. Court for Cent. Dist.
of California, 24 F.3d 1545, 1555-56 (9th Cir. 1994); Schneider v. TRW, Inc., 938
F.2d 986, 993-94 (9th Cir. 1991).

1 (9th Cir. 1990). Since plaintiff is appearing pro se, the Court must construe the
 2 allegations of the Complaint liberally and must afford plaintiff the benefit of any
 3 doubt. See Karim-Panahi v. Los Angeles Police Dep't, 839 F.2d 621, 623 (9th Cir.
 4 1988). Further, in determining whether the Complaint states a claim on which relief
 5 may be granted, its allegations of material fact must be taken as true and construed in
 6 the light most favorable to plaintiff. See Love v. United States, 915 F.2d 1242, 1245
 7 (9th Cir. 1989). Moreover, with respect to plaintiff's pleading burden, the Supreme
 8 Court has held that: "a plaintiff's obligation to provide the 'grounds' of his
 9 'entitle[ment] to relief' requires more than labels and conclusions, and a formulaic
 10 recitation of the elements of a cause of action will not do. ... Factual allegations must
 11 be enough to raise a right to relief above the speculative level ... on the assumption
 12 that all the allegations in the complaint are true (even if doubtful in fact)." Bell
 13 Atlantic Corp. v. Twombly, 550 U.S. 544, 555, 127 S. Ct. 1955, 1964-65, 167 L. Ed.
 14 2d 929 (2007) (internal citations omitted, alteration in original); see also Lazy Y
 15 Ranch LTD v. Behrens, 546 F.3d 580, 588 (9th Cir. 2008) ("To survive a motion to
 16 dismiss for failure to state a claim, the plaintiff must allege 'enough facts to state a
 17 claim to relief that is plausible on its face'." (citing Twombly, 550 U.S. at 570)).

18
 19 **DISCUSSION**

20 **I. Plaintiff's TAC still fails to state a claim under the Eighth Amendment**
 21 **against the LACSD, Sheriff Baca, or defendant McKoun.**

22 In his TAC, plaintiff alleges the following facts pertaining to his claim that
 23 defendants allegedly provided inadequate medical care: (1) "plaintiff was denied
 24 adequate medical care, and care to treat a handicapp [sic] legally blind person
 25 requiring grooming, feeding, bathing, and clothing assistance while detained by
 26 defendant Baca" (TAC at 5); (2) plaintiff was "denied medical treatment" (TAC at 6,
 27 7); (3) Sheriff Baca "received plaintiff into his custody" and "was advised by [the]
 28 California Department of Corrections [that] plaintiff was under care of [a]

1 psychiatrist” but plaintiff’s documents were lost (TAC at 7); and (4) “plaintiff was
2 denied medication for over 28 days and suffered severe brain damage” (TAC at 6, 7).

3 In order to establish an Eighth Amendment claim based on inadequate medical
4 care, plaintiff must show that a specific defendant was deliberately indifferent to his
5 serious medical needs. See Helling v. McKinney, 509 U.S. 25, 32, 113 S. Ct. 2475,
6 125 L. Ed. 2d 22 (1993); Estelle v. Gamble, 429 U.S. 97, 106, 97 S. Ct. 285, 50 L. Ed
7 2d 251 (1976); McGuckin v. Smith, 974 F.2d 1050, 1059 (9th Cir. 1992), overruled
8 on other grounds, WMX Technologies v. Miller, 104 F.3d 1133 (9th Cir. 1997).

9 Deliberate indifference to the serious medical needs of a prisoner constitutes the
10 “unnecessary and wanton infliction of pain” proscribed by the Eighth Amendment.

11 See McKinney, 509 U.S. at 32; Estelle, 429 U.S. at 104; McGuckin, 974 F.2d at 1059.

12 Deliberate indifference may be manifested by the intentional denial, delay or
13 interference with the plaintiff’s medical care, or by the manner in which the medical
14 care was provided. See Estelle, 429 U.S. at 104-05; McGuckin, 974 F.2d at 1059.

15 However, the defendant must purposefully ignore or fail to respond to the plaintiff’s
16 pain or medical needs. See McGuckin, 974 F.2d at 1060. Plaintiff must allege that,

17 subjectively, defendants had a “sufficiently culpable state of mind” when they refused
18 medical care. Clement v. Gomez, 298 F.3d 898, 903 (9th Cir. 2002) (quoting Wallis

19 v. Baldwin, 70 F.3d 1074, 1076 (9th Cir. 1995)). The defendant must “both be aware
20 of the facts from which the inference could be drawn that a substantial risk of serious

21 harm exists, and he must also draw the inference.” Farmer v. Brennan, 511 U.S. 825,
22 837, 114 S. Ct. 1970, 128 L. Ed. 2d 811 (1994). Thus, an inadvertent failure to

23 provide adequate medical care, mere negligence or medical malpractice, a mere delay
24 in medical care (without more), or a difference of opinion over proper medical

25 treatment, are all insufficient to constitute an Eighth Amendment violation. See

26 Estelle, 429 U.S. at 105-07; Sanchez v. Vild, 891 F.2d 240, 242 (9th Cir. 1989);

27 Shapley v. Nevada Bd. of State Prison Commissioners, 766 F.2d 404, 407 (9th Cir.

28 1985).

1 Moreover, a determination of “deliberate indifference” must involve an
2 examination of the seriousness of plaintiff’s medical need. “[D]eliberate indifference
3 to medical needs amounts to an Eighth Amendment violation only if those needs are
4 ‘serious.’” McGuckin, 974 F.2d at 1059 (citing Hudson v. McMillian, 503 U.S. 1,
5 112 S. Ct. 995, 1000, 117 L. Ed. 2d 156 (1992)). “A ‘serious’ medical need exists if
6 the failure to treat a prisoner’s condition could result in further significant injury or
7 the ‘unnecessary and wanton infliction of pain.’” Id. (citing Estelle, 429 U.S. at 104).
8 Indications of such a need include “[t]he existence of an injury that a reasonable
9 doctor or patient would find important and worthy of comment or treatment; the
10 presence of a medical condition that significantly affects an individual’s daily
11 activities; or the existence of chronic and substantial pain.” Id. at 1059-60.

12 Here, to the extent that plaintiff is purporting to raise any claims pertaining to
13 the alleged failure by defendants to provide adequate medical care, plaintiff has failed
14 to name any responsible jail officials. To state a claim against a particular defendant
15 in his or her individual capacity for violation of his civil rights under 42 U.S.C. §
16 1983, plaintiff must allege that the defendant, acting under color of state law, deprived
17 plaintiff of a right guaranteed under the Constitution or a federal statute. See Karim-
18 Panahi, 839 F.2d at 624. “A person deprives another ‘of a constitutional right, within
19 the meaning of section 1983, if he does an affirmative act, participates in another’s
20 affirmative acts, or omits to perform an act which he is legally required to do that
21 causes the deprivation of which [the plaintiff complains].” Leer v. Murphy, 844 F.2d
22 628, 633 (9th Cir. 1988), quoting Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir.
23 1978).

24 Thus, supervisory personnel generally are not liable under 42 U.S.C. § 1983 on
25 any theory of respondeat superior or vicarious liability in the absence of a state law
26 imposing such liability. See, e.g., Redman v. County of San Diego, 942 F.2d 1435,
27 1446 (9th Cir. 1991) (en banc). A supervisory official may be liable under § 1983
28 only if he or she was personally involved in the constitutional deprivation, or if there

1 was a sufficient causal connection between the supervisor's wrongful conduct and the
2 constitutional violation. See id. at 1446-47. As recently stated by the Supreme Court,
3 "in a § 1983 suit or a Bivens action - where masters do not answer for the torts of their
4 servants - the term 'supervisory liability' is a misnomer. Absent vicarious liability,
5 each government official, his or her title notwithstanding, is only liable for his or her
6 own misconduct." Ashcroft v. Iqbal, 129 S. Ct. 1937, 1949, 173 L. Ed. 2d 868 (2009).

7
8 Further, to premise a supervisor's alleged liability on a policy promulgated by
9 the supervisor, plaintiff must identify a specific policy and establish a "direct causal
10 link" between that policy and the alleged constitutional deprivation. See, e.g., City
11 of Canton v. Harris, 489 U.S. 378, 385, 109 S. Ct. 1197, 103 L. Ed. 2d 412 (1989);
12 Oviatt v. Pearce, 954 F.2d 1470, 1474 (9th Cir. 1992).

13 Finally, to the extent that plaintiff is attempting to state a claim against the
14 LACSD, Sheriff Baca, or any sheriff's deputy in his or her official capacity, the
15 Supreme Court has held that an "official-capacity suit is, in all respects other than
16 name, to be treated as a suit against the entity." Kentucky v. Graham, 473 U.S. 159,
17 166, 105 S. Ct. 3099, 87 L. Ed. 2d 114 (1985); see also Brandon v. Holt, 469 U.S.
18 464, 471-72, 105 S. Ct. 873, 83 L. Ed. 2d 878 (1985); Larez v. City of Los Angeles,
19 946 F.2d 630, 646 (9th Cir. 1991). Such a suit "is not a suit against the official
20 personally, for the real party in interest is the entity." Graham, supra. Further, a local
21 government entity "may not be sued under § 1983 for an injury inflicted solely by its
22 employees or agents. Instead, it is when execution of a government's policy or
23 custom, whether made by its lawmakers or by those whose edicts or acts may fairly
24 be said to represent official policy, inflicts the injury that the government as an entity
25 is responsible under § 1983." Monell v. New York City Department of Social Servs.,
26 436 U.S. 658, 694, 98 S. Ct. 2018, 56 L. Ed. 2d 611 (1978). The local government
27 entity may not be held liable for the acts of its employees unless "the action that is
28 alleged to be unconstitutional implements or executes a policy statement, ordinance,

1 regulation, or decision officially adopted or promulgated by that body's officers," or
2 if the alleged action was "pursuant to a governmental 'custom' even though such a
3 custom has not received formal approval through the body's official decision-making
4 channels." Monell, 436 U.S. at 690-91; see also Redman, 942 F.2d at 1443-44. Thus,
5 plaintiff cannot state a claim against any defendant herein in his or her official
6 capacity, or against the LACSD, unless he sufficiently alleges that: (1) he was
7 deprived of his constitutional rights by defendant and its employees acting under color
8 of state law; (2) defendant has a custom or policy that amounts to "deliberate
9 indifference" to plaintiff's constitutional rights; and (3) defendant's custom or policy
10 was the "moving force behind the constitutional violation[s]." Lee v. City of Los
11 Angeles, 250 F.3d 668, 681-82 (9th Cir. 2001).

12 In his TAC, plaintiff names Sheriff Baca as a defendant, but plaintiff once again
13 fails to allege that Sheriff Baca was personally involved in any of the alleged
14 constitutional deprivations, nor has plaintiff identified any particular policy or policies
15 promulgated by Sheriff Baca that allegedly had a direct causal link to the alleged
16 failure to provide adequate medical care. Plaintiff raises numerous allegations
17 pertaining to policies allegedly established or promulgated by Sheriff Baca, but even
18 accepting plaintiff's allegations of material fact as true and construing them in the
19 light most favorable to plaintiff, all of these policies pertain to the LACSD's failure
20 to provide an adequate administrative review system for detainees. (See, e.g., "Baca
21 intentionally denied a procedural means of remedy to apply for a reasonable
22 accommodation for a known disability" (TAC at 5); Baca permitted "inmates to be
23 denied a procedural means of due process of law to receive a notice of instructions,
24 policies, or procedures [on] how to request dental care, optometry care, medical care,
25 and refused to institute a policy that would inform inmates of a time limit to file
26 grievances or appeal and had no forms available to plaintiff" (TAC at 6); Baca
27 "ratified a custom or policy that would tolerate all sheriff deputies to ignore inmates
28 request [sic] for complaint forms and denied plaintiff a procedural remedy to request

1 medical attention” (TAC at 6); Sheriff Baca’s policies “failed to allow plaintiff to use
2 a specified grievance procedure of [sic] appeal process that was documented or clearly
3 annotated and comprehensibly written” (TAC at 8); Baca’s policies “failed to provide
4 institutional and/or departmental staff to provide assistance necessary to ensure that
5 inmates who are disabled or handicapped . . . would have access to appeal/grievances”
6 (TAC at 8)).

7 Despite having previously been advised by the then-assigned Magistrate
8 Judge’s “Order Granting Defendants’ Motions to Dismiss” and again in the
9 “Memorandum and Order Granting Motion to Dismiss with Leave to Amend” that the
10 allegations in his Complaint and First Amended Complaint were insufficient to state
11 a claim against Sheriff Baca in his individual capacity because plaintiff failed to allege
12 that Sheriff Baca was personally involved in the alleged constitutional deprivations,
13 plaintiff still has failed to remedy this deficiency. Although plaintiff’s TAC includes
14 vague references to Sheriff Baca’s policies that resulted in an alleged failure to have
15 “forms” available on which a detainee could request medical care, plaintiff raises no
16 factual allegations that plaintiff personally requested medical care in any manner or
17 sought any form on which to request medical care during his detention. Further,
18 plaintiff has altogether failed to allege that any policy promulgated by Sheriff Baca
19 caused the constitutional violation of which he complains. Moreover, plaintiff has
20 failed to raise any allegations that any action taken by, or policy promulgated by,
21 Sheriff Baca was the cause of plaintiff having been “denied medication for over 28
22 days.” (TAC at 6). Accordingly, the Court finds that plaintiff’s factual allegations
23 against Sheriff Baca in his individual capacity are insufficient to “raise a right to relief
24 above the speculative level.” Twombly, 550 U.S. at 555.

25 In addition, to the extent that plaintiff may be purporting to raise a claim under
26 the Eighth Amendment against Sheriff Baca in his official capacity or against the
27 LACSD, plaintiff merely raises vague allegations such as that the unspecified facility
28 in which he was being held “had no forms available for plaintiff to use to demand

1 necessary medical treatment” (TAC at 6), and that Sheriff Baca allowed a custom for
2 Sheriff Deputies to “ignore inmates['] request [sic] for complaint forms” (TAC at 6).
3 Even accepting these allegations as true, plaintiff has failed to allege that the LACSD
4 had in place any custom or policy that amounted to deliberate indifference to
5 plaintiff’s constitutional rights. Nor has plaintiff raised any reasonable inference that
6 any alleged custom or policy pertaining to the availability of complaint forms was the
7 “moving force behind” the alleged unconstitutional deprivation of plaintiff’s
8 medication. Lee, 250 F.3d at 681-82. Accordingly, the Court finds that the
9 allegations of plaintiff’s TAC fail to state a claim pursuant to the Eighth Amendment
10 against the LACSD or against any LACSD official in his or her official capacity.

11 Moreover, although plaintiff has added J. McKoun³ as a defendant in the TAC,
12 plaintiff raises no factual allegations that defendant McKoun did an affirmative act,
13 participated in another’s affirmative act, or failed to perform an act which he was
14 legally required to do that allegedly caused the constitutional deprivation of which
15 plaintiff complains. The only specific allegation against McKoun is that he was
16 “given” a grievance that plaintiff filed pertaining to plaintiff’s allegedly inadequate
17 medical care and “did nothing about it.” (TAC at 7). However, the mere participation
18 of McKoun in plaintiff’s administrative grievance process is an insufficient basis on
19 which to state a federal civil rights claim against the defendant. See, e.g., George v.
20 Smith, 507 F.3d 605, 609-10 (7th Cir. 2007) (holding that only persons who cause or
21 participate in civil rights violations can be held responsible and that “[r]uling against
22 a prisoner on an administrative complaint does not cause or contribute to the
23

24 ³ Although McKoun has not been served herein and is not a party to
25 Motion, the Court has screened the TAC with respect to the allegations against
26 McKoun in accordance with the terms of the “Prison Litigation Reform Act of 1995”
27 (“PLRA”) for purposes of determining whether the action is frivolous or malicious;
28 or fails to state a claim on which relief may be granted; or seeks monetary relief
against a defendant who is immune from such relief. See 28 U.S.C. §§ 1915(e)(2),
1915A(b); 42 U.S.C. § 1997e(c)(1).

1 violation”); Shehee v. Luttrell, 199 F.3d 295, 300 (6th Cir. 1999) (holding that prison
 2 officials whose only roles involved the denial of the prisoner’s administrative
 3 grievances cannot be held liable under § 1983); Wright v. Shapirshteyn, No. CV 1-06-
 4 0927-MHM, 2009 WL 361951, *3 (E.D. Cal. Feb. 12, 2009) (noting that “where a
 5 defendant’s only involvement in the allegedly unconstitutional conduct is the denial
 6 of administrative grievances, the failure to intervene on a prisoner’s behalf to remedy
 7 alleged unconstitutional behavior does not amount to active unconstitutional behavior
 8 for purposes of § 1983”); Velasquez v. Barrios, No. 07cv1130-LAB (CAB), 2008 WL
 9 4078766, *11 (S.D. Cal. Aug. 29, 2008) (“An official’s involvement in reviewing a
 10 prisoner’s grievances is an insufficient basis for relief through a civil rights action.”).

11 The Court therefore finds that plaintiff’s allegations in the TAC are insufficient
 12 to state a claim under the Eighth Amendment against any defendant.

13

14 **II. Plaintiff’s allegations are insufficient to state a claim under the ADA.**

15 Plaintiff purports to be alleging a claim pursuant to the ADA for failure to
 16 provide “reasonable accommodation for a known disability as [a] legally blind
 17 person.” (TAC at 5).⁴ Plaintiff, however, altogether fails to set forth any factual
 18 allegations pertaining to the way in which the accommodations he was provided
 19 during his brief detention were inadequate. Plaintiff merely alleges that Sheriff Baca
 20 “denied handicapp [sic] disabled inmates access to safe living conditions by housing
 21 a legally blind plaintiff in path of travel of [sic] stairs, and to be housed where no staff
 22

23 ⁴ The Court notes that, to the extent that plaintiff’s claims pursuant to the
 24 ADA may arise from the alleged failure of the LACSD to provide disabled detainees
 25 with an adequate grievance procedure, defendants have adduced evidence, discussed
 26 below, in connection with their unenumerated Rule 12(b) motion with respect to the
 27 issue of exhaustion that plaintiff lodged six inmate complaints during the period
 28 between September 29, 2006 and October 27, 2006. (See Decl. Shilinga ¶¶ 9, 12, Ex. A). In deciding such a Motion, “the court may look beyond the pleadings and decide disputed issues of fact.” See Wyatt, 315 F.3d at 1120.

1 monitor's [sic] the dwelling place of a blind inmate." (TAC at 6).

2
3 A. Federal law

4 Title II of the ADA provides that "no qualified individual with a disability shall,
5 by reason of such disability, be excluded from participation in or be denied the
6 benefits of the services, programs, or activities of a public entity, or be subject to
7 discrimination by such entity." 42 U.S.C. § 12132. To establish violation of Title II
8 of ADA, a plaintiff must show that: (1) he or she is a qualified individual with a
9 disability; (2) he or she was excluded from participation in or otherwise discriminated
10 against with regard to a public entity's services, programs, or activities; and (3) such
11 exclusion or discrimination was by reason of his or her disability. See Lovell v.
12 Chandler, 303 F.3d 1039, 1052 (9th Cir. 2002). Although the term "public entity"
13 includes state prisons, see Pennsylvania Dep't of Corrections v. Yeskey, 524 U.S. 206,
14 210, 118 S. Ct. 1952, 141 L. Ed. 2d 215 (1998), it does not include individuals being
15 sued in their individual capacities. See Vinson v. Thomas, 288 F.3d 1145, 1156 (9th
16 Cir. 2002) (plaintiff cannot sue state officials in their individual capacities to vindicate
17 rights created by Title II of the ADA); Alsbrook v. City of Maumelle, 184 F.3d 999,
18 1005 n.8 (8th Cir. 1999) (en banc) (plaintiff cannot sue government actors in
19 individual capacities for the alleged violations of the ADA). Moreover, the ADA
20 applies to the Los Angeles County Jails' services, programs, and activities for
21 detainees. See Pierce v. County of Orange, 519 F.3d 985, 1008 (9th Cir.) (as
22 amended), cert. denied, 129 S. Ct. 597 (2008).

23 In addition, to recover monetary damages under Title II of the ADA, a plaintiff
24 must establish intentional discrimination on the part of the public entity. See Mark
25 H. v. Lemahieu, 513 F.3d 922, 938 (9th Cir. 2008) ("a public entity can be liable for
26 damages under §504 if it intentionally or with deliberate indifference fails to provide
27 meaningful access or reasonable accommodation to disabled persons"); Duvall v.
28 County of Kitsap, 260 F.3d 1124, 1138 (9th Cir. 2001); Ferguson v. City of Phoenix,

1 157 F.3d 668, 674 (9th Cir. 1998).

2
3 **B. Application**

4 First, to the extent that plaintiff may be purporting to allege a claim pursuant
5 to the ADA against Sheriff Baca (or any other LACSD official) in his individual
6 capacity, plaintiff may not raise a claim pursuant to the ADA against a public official
7 in his or her individual capacity. See Vinson, 288 F.3d at 1156.

8 Further, to the extent that plaintiff may be purporting to allege that the LACSD
9 violated the ADA by failing to provide adequate medical treatment for his disabilities,
10 such a claim does not fall within the provisions of the ADA. See, e.g., Alexander v.
11 Tilton, 2009 WL 464486, at *7, 2009 U.S. Dist. LEXIS 20179 (E.D. Cal. Feb. 24,
12 2009) (collecting cases and noting that “other courts have found that the ADA and
13 [the Rehabilitation Act] do not create a federal cause of action for prisoners
14 challenging the medical treatment provided for their underlying disabilities”); Burger
15 v. Bloomberg, 418 F.3d 882, 883 (8th Cir. 2005) (holding that claims pursuant to the
16 ADA or the Rehabilitation Act “cannot be based on medical treatment decisions”);
17 Grzan v. Charter Hosp. of Northwest Indiana, 104 F.3d 116, 121-22 (7th Cir. 1997)
18 (“Allegations of discriminatory medical treatment do not fit into the four-element
19 framework required by section 504 [of the Rehabilitation Act].”).

20 Finally, to the extent that plaintiff may be purporting to raise a claim pursuant
21 to the ADA against Sheriff Baca in his official capacity or against the LACSD,
22 plaintiff’s TAC fails to sets forth any factual allegations that he was excluded from
23 participation in, or otherwise discriminated against with regard to, any services,
24 programs, or activities, or that such exclusion or discrimination was by reason of his
25 disability. Although plaintiff vaguely alleges that he was at some point during his
26
27
28

1 brief detention by the LACSD⁵ housed in an unspecified situation where he was “in
2 path of travel of stairs” and were he was not “monitored” by staff, plaintiff does not
3 state any facts from which it could reasonably be inferred that plaintiff sought any
4 more appropriate housing, or that his housing was assigned or denied intentionally
5 because of his disability. Although the court must construe a pro se plaintiff’s
6 complaint liberally, plaintiff nonetheless must allege a minimum factual and legal
7 basis for each claim that is sufficient to give each defendant fair notice of what
8 plaintiff’s claims are and the grounds upon which they rest. See, e.g., Brazil v. United
9 States Dep’t of the Navy, 66 F.3d 193, 199 (9th Cir. 1995); McKeever v. Block, 932
10 F.2d 795, 798 (9th Cir. 1991).

11 Accordingly, the Court finds that plaintiff’s allegations fail to state a claim for
12 monetary damages pursuant to the ADA against any defendant.

13
14 C. Additionally, plaintiff failed to exhaust his administrative remedies

15 Defendant Baca contends that plaintiff failed to exhaust his administrative
16 remedies with respect to his claims pursuant to the ADA. (See Motion Mem. at 11-
17 12). In his Opposition, plaintiff contends that he did exhaust his ADA claim, and that
18 evidence is attached to his declaration as Exhibits D and E. (See Opp. at 12-34).

19
20 1. The exhaustion of administrative remedies requirement

21 As part of the PLRA, Congress amended and strengthened the requirement that
22 prisoners pursuing civil rights claims under 42 U.S.C. § 1983, or another federal
23

24
25 ⁵ Plaintiff’s TAC lists one date—September 29, 2007—as the date of the
26 violations, but his attached exhibits indicate that the alleged discrimination in
27 violation of the ADA occurred between September 29, 2007 and October 29, 2007.
28 (See TAC at 3, Ex. B). As set forth above, however, the records of the LACSD
indicate that plaintiff was detained between September 29, 2006 and October 27,
2006.

1 statute,⁶ must first exhaust administrative remedies. As amended, 42 U.S.C. § 1997e
2 (a) provides:

3 “No action shall be brought with respect to prison conditions
4 under section 1983 of this title, or any other Federal law, by a prisoner
5 confined in any jail, prison, or other correctional facility until such
6 administrative remedies as are available are exhausted.”
7

8 The Supreme Court has held that the PLRA requires a prisoner to complete any
9 prison administrative process capable of addressing the inmate’s complaint and
10 providing some form of relief, even if the prisoner seeks money damages and such
11 relief is not available under the administrative process. See Booth v. Churner, 532
12 U.S. 731, 741, 121 S. Ct. 1819, 149 L. Ed. 2d 958 (2001). Moreover, “the PLRA’s
13 exhaustion requirement applies to all inmate suits about prison life, whether they
14 involve general circumstances or particular episodes, and whether they allege
15 excessive force or some other wrong.” Porter v. Nussle, 534 U.S. 516, 524, 122 S. Ct.
16 983, 152 L. Ed. 2d 12 (2002). Thus, the exhaustion requirement applies to all
17 prisoners seeking redress for any complaint concerning prison conditions or
18 occurrences. See Porter, 122 S. Ct. at 986; see also Jones v. Bock, 549 U.S.199, 127
19 S. Ct. 910, 166 L. Ed. 2d 798, 810 (2007) (“There is no question that exhaustion is
20 mandatory under the PLRA and that unexhausted claims cannot be brought in court.”).

21 The Supreme Court also has held that § 1997e(a) creates an affirmative defense
22 and, therefore, “inmates are not required to specially plead or demonstrate exhaustion
23 in their complaints.” See Jones, 127 S. Ct. at 921. Further, the Ninth Circuit has long
24 held that defendants have the burden of raising and proving plaintiff’s failure to
25

26 ⁶ The PLRA’s exhaustion requirement applies equally to claims raised
27 pursuant to the ADA. See O’Guinn v. Lovelock Corr. Ctr., 502 F.3d 1056, 1060 (9th
28 Cir. 2007) (holding that “the PLRA requires administrative exhaustion of ADA and
Rehabilitation Act claims”).

1 exhaust. See Wyatt, 315 F.3d at 1119. In addition, it is clear that “§1997e(a) requires
 2 exhaustion **before** the filing of a complaint and that a prisoner does not comply with
 3 this requirement by exhausting available remedies during the course of the litigation.”
 4 McKinney v. Carey, 311 F.3d 1198, 1199 (9th Cir. 2002) (emphasis added); see also
 5 Woodford v. Ngo, 548 U.S. 81, 93-94, 126 S. Ct. 2378, 165 L. Ed. 2d 368 (2006);
 6 Vaden v. Summerhill, 449 F.3d 1047, 1048 (9th Cir. 2006) (“PLRA requires that a
 7 prisoner exhaust administrative remedies before submitting any papers to the federal
 8 court”); Brown v. Valoff, 422 F.3d 926, 929-30 (9th Cir. 2005) (“a prisoner may not
 9 proceed to federal court while exhausting administrative remedies”). If a prisoner has
 10 not completed his administrative remedies before filing his federal suit, the court must
 11 dismiss the action without prejudice to the prisoner filing a new action after he has
 12 completed his administrative remedies. See McKinney, 311 F.3d at 1200-01. Finally,
 13 a prisoner “must complete the administrative review process in accordance with the
 14 applicable rules, including deadlines, as a precondition to bringing suit in federal
 15 court.” See Ngo, 126 S. Ct. at 2384.

16 Further, because the PLRA exhaustion requirement is not jurisdictional, the
 17 Ninth Circuit held in Wyatt that a failure to exhaust administrative remedies “should
 18 be treated as a matter in abatement, which is subject to an unenumerated Rule 12(b)
 19 motion.” Wyatt, 315 F.3d at 1119 (citing Ritza, 837 F.2d at 368). Here, defendants
 20 have filed an unenumerated Rule 12(b) Motion with respect to the issue of exhaustion.
 21 In deciding such a motion, “the court may look beyond the pleadings and decide
 22 disputed issues of fact.” See Wyatt, 315 F.3d at 1120.

23
 24 2. The exhaustion procedure for the Los Angeles County Jails

25 According to the evidence adduced by defendants, the administrative remedy
 26 procedure for inmates in the custody of the LACSD is initiated when an inmate
 27 deposits an inmate complaint form (or any written complaint) in one of the “Inmate
 28 Complaint” boxes located in each area of inmate housing, or when he hands the

1 complaint to any staff employee. If the inmate is not satisfied with the response to his
2 initial complaint, he may appeal to the Watch Commander and then to the
3 Captain/Unit Commander. After reviewing the investigation into the inmate's
4 complaint, the Watch Commander forwards the complaint to the Complaint
5 Coordinator, who then is responsible for entering the data pertaining to the complaint
6 into the "Facilities Automated Statistical Tracking System." (See Decl. Shilinga ¶¶
7 3-7).

8
9 3. The record of plaintiff's administrative grievances

10 Defendants have adduced evidence that plaintiff was processed by the LACSD
11 at the County of Los Angeles Inmate Reception Center on September 29, 2006. He
12 was transferred to the Twin Towers Correctional Facility on October 2, 2006, where
13 he was held until his release by the LACSD into the custody of the Tehachapi
14 California Correctional Institute on October 27, 2006. (See Decl. Shilinga ¶ 9).

15 During his detention by the LACSD, six inmate complaints were lodged by
16 plaintiff or on plaintiff's behalf by the American Civil Liberties Union ("ACLU").
17 (See Decl. Shilinga ¶¶ 12, 14, Ex. A). Each of plaintiff's grievances raised issues
18 pertaining to the denial of blood pressure and psychotropic medication. (See Decl.
19 Shilinga ¶ 12). None of the grievances mentioned any deprivation of service or
20 accommodation pertaining to plaintiff's handicaps. (See Decl. Shilinga ¶ 12). The
21 exhibits attached to Shilinga's Declaration reflect that plaintiff filed four grievances
22 that were described at least in part as "medical services" or "mental health services,"
23 and two additional grievances described as "release info/sentence." (See Decl.
24 Shilinga, Ex. A). Of the grievance forms that are attached, four reflect plaintiff's
25 complaints concerning the failure to receive his medication and other "medical
26 attention." (See Decl. Shilinga, Ex. A at 19-24, 26-33). None of the grievances
27 mention any disability, nor raise plaintiff's allegations that he was denied
28 accommodations or services because of any disability.

1 In his Opposition, plaintiff contends that the LACSD lacked the necessary
2 forms for a visually-impaired person to file a grievance and that “all six complaint’s
3 [sic] retained by Baca was [sic] filed on behalf of [plaintiff] by the American Civil
4 Liberties Union.” (See Opp. at 7). Plaintiff argues that he “was unable to submit a
5 grievance.” (See Opp. at 17). Further, plaintiff contends he has adduced evidence
6 that he exhausted his claims as his Exhibits D and E. (See Opp. at 6). Plaintiff’s
7 Exhibit D consists of copies of undated letters that plaintiff appears to have written
8 to the Federal Bureau of Investigation and to Senator Barbara Boxer pertaining to the
9 denial of medication while he previously was detained by the LACSD. (See Opp., Ex.
10 D). Plaintiff’s Exhibit E is a request that plaintiff made to the LACSD seeking
11 documentation regarding information provided to inmates. (See Opp., Ex. E). In
12 addition, plaintiff’s Exhibit B includes a form complaint to the United States
13 Department of Justice pertaining to a complaint under the ADA regarding plaintiff’s
14 confinement in the “Men’s Central Jail,” between September 29, 2007 and October
15 29, 2007. Plaintiff dated that form on October 17, 2007 and states that he also filed
16 a complaint with the “Commission of Civil Rights” on October 10, 2007. (See Opp.,
17 Ex. B, B-2 to B-4). Plaintiff’s Exhibit C consists of a disability complaint form that
18 appears to pertain to plaintiff that is dated August 19, 2008. (See Opp., Ex. C).

19 20 4. Application

21 The Court concurs with defendant Sheriff Baca that plaintiff has failed to
22 exhaust his claim that defendants failed to provide reasonable accommodations for
23 plaintiff as a blind or disabled detainee. The uncontested evidence reflects that
24 plaintiff successfully filed numerous administrative grievances while detained by the
25 LACSD. None of these grievances mention any failure by defendants to
26 accommodate any type of disability. Although plaintiff argues in his Opposition that
27 all of his complaints were filed by the ACLU and not by plaintiff, plaintiff’s own
28 evidence belies this. Attached to his Opposition as part of his Exhibit A are copies of

1 two "Inmate Complaint Forms," each of which was written in the first person by an
2 inmate purporting to be plaintiff; both pertain to plaintiff's claim that he was denied
3 medication. (See Opp., Ex. A; see also Decl. Shilinga, Ex. A at 21-24, 30-33).
4 Further, the LACSD entered complaints it received on plaintiff's behalf by the ACLU
5 and investigated those complaints as if they had been filed by plaintiff. (See Decl.
6 Shilinga, Ex. A at 18-20, 26, 29). Plaintiff, however, failed to notify the LACSD in
7 any of his grievances that he believed that he was being denied reasonable
8 accommodations for his disabilities.

9 As the Ninth Circuit recently clarified, "[t]he primary purpose of a grievance
10 is to alert the prison to a problem and facilitate its resolution." Griffin v. Arpaio, 557
11 F.3d 1117, 1120 (9th Cir. 2009); see also Jones, 549 U.S. at 203 ("Requiring
12 exhaustion allows prison officials an opportunity to resolve disputes concerning the
13 exercise of their responsibilities before being haled into court."). The Ninth Circuit
14 further clarified that a grievance "need not contain every fact necessary to prove each
15 element of an eventual legal claim," but it must "provide notice of the harm being
16 grieved." Griffin, supra. As the Supreme Court has emphasized, proper compliance
17 with the institution's grievance procedures is all that is required to satisfy the
18 exhaustion requirement of the PLRA. See Jones, 127 S. Ct. 910, 922-23. Here, the
19 uncontested evidence reflects that defendants did not receive notice that plaintiff was
20 being harmed by any failure to accommodate his disabilities. Plaintiff's exhibits to
21 his Opposition are of no avail. The letters to outside agencies reflected in plaintiff's
22 Exhibits D and E neither satisfy the requirement that plaintiff comply with the
23 institute's rules for its grievance procedure, nor provide notice to LACSD officials of
24 plaintiff's purported harm. Further, plaintiff's Exhibits B and C that do reflect
25 complaints plaintiff lodged with outside agencies pertaining to plaintiff's disability
26 were filed in October, 2007, and August, 2008, both long after plaintiff had initiated
27 his federal civil rights case herein. It long has been clear that "§1997e(a) requires
28 exhaustion **before** the filing of a complaint and that a prisoner does not comply with

1 this requirement by exhausting available remedies during the course of the litigation.”
2 McKinney, 311 F.3d at 1199.

3 Accordingly, the Court finds that plaintiff failed to comply with the
4 requirements of §1997e(a) that he exhausted his administrative remedies before filing
5 a federal civil rights complaint.

6
7 **III. Plaintiff’s cannot state a federal civil rights claim for failure to provide an**
8 **adequate grievance procedure.**

9 To the extent that plaintiff may be purporting to state a claim pursuant to the
10 Due Process Clause of the Fourteenth Amendment against defendants based on their
11 alleged failure to properly address or process his administrative grievances, or their
12 alleged failure to provide adequate forms or instructions on which to raise his
13 grievances, plaintiff’s allegations are insufficient to state a federal civil rights claim.
14 Plaintiff has no constitutional right to an effective grievance or appeal procedure. See
15 Ramirez v. Galaza, 334 F.3d 850, 860 (9th Cir. 2003) (holding that a prisoner has no
16 constitutional right to an effective grievance or appeal procedure); Mann v. Adams,
17 855 F.2d 639, 640 (9th Cir. 1988); Buckley v. Barlow, 997 F.2d 494, 495 (8th Cir.
18 1993) (“[A prison] grievance procedure is a procedural right only, it does not confer
19 any substantive right upon the inmates.”). Moreover, the guarantee of procedural due
20 process under the Fourteenth Amendment applies only when a constitutionally
21 protected liberty or property interest is at stake. See Ingraham v. Wright, 430 U.S.
22 651, 672, 97 S. Ct. 1401, 51 L. Ed. 2d 711 (1977); Board of Regents v. Roth, 408 U.S.
23 564, 569, 92 S. Ct. 2701, 33 L. Ed. 2d 548 (1972); Erickson v. United States, 67 F.3d
24 858, 861 (1995). A state’s inmate administrative appeal system does not implicate a
25 liberty interest protected by the Due Process Clause. See, e.g., Antonelli v. Sheahan,
26 81 F.3d 1422, 1430 (7th Cir. 1996).

27
28 **IV. The TAC should be dismissed without leave to amend.**

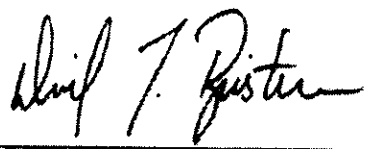
1 Because plaintiff is appearing herein pro se, he must be given leave to amend
2 his TAC unless it is absolutely clear to the Court that the deficiencies of the TAC
3 cannot be cured by amendment. See Noll v. Carlson, 809 F.2d 1446, 1448 (9th Cir.
4 1987). As discussed above, the court has on two prior occasions advised plaintiff that
5 his allegations were insufficient to state a claim against Sheriff Baca because plaintiff
6 failed to allege that Sheriff Baca was personally involved in the alleged constitutional
7 deprivations. Because plaintiff repeatedly has failed to remedy the deficiencies in his
8 claims pursuant to the Eighth Amendment after being provided with opportunities in
9 which to do so, it has become absolutely clear to the Court that plaintiff cannot cure
10 the deficiencies in his TAC by amendment. Further, as is discussed above, plaintiff
11 failed to exhaust his administrative remedies with respect to any claims pursuant to
12 the ADA prior to filing suit herein. Accordingly, leave to amend this claim would be
13 futile. See, e.g., Flowers v. First Hawaiian Bank, 295 F.3d 966, 976 (9th Cir. 2002)
14 (“A district court, however, does not abuse its discretion in denying leave to amend
15 where amendment would be futile.”).

16 The Court therefore recommends that defendant’s Motion be granted and that
17 plaintiff’s TAC be dismissed without leave to amend.

18
19 **RECOMMENDATION**

20 The Court therefore recommends that the District Court issue an Order: (1)
21 approving and adopting this Report and Recommendation; (2) granting defendant’s
22 Motion to Dismiss; and (3) directing that Judgment be entered dismissing this action
23 without leave to amend and with prejudice.

24 DATED: December 2, 2009

25 

26

DAVID T. BRISTOW
27 UNITED STATES MAGISTRATE JUDGE
28

EXHIBIT “B”

FILED
CLERK, U.S. DISTRICT COURT
JAN -7 2008
CENTRAL DISTRICT OF CALIFORNIA
BY [Signature] DEPUTY

FILED
CLERK, U.S. DISTRICT COURT
SEND
JAN 31 2008
CENTRAL DISTRICT OF CALIFORNIA
BY [Signature] DEPUTY

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

INMATE #
K-89434
RONNIE O. BROWN

CASE NUMBER
EDCV08-11 (JWJ)

PLAINTIFF(S)

DEFENDANT(S)
DEPARTMENT ADULT PAROLE OPERATIONS, ET AL.

**ORDER RE LEAVE TO FILE ACTION
WITHOUT PREPAYMENT OF FULL
FILING FEE**

IT IS ORDERED that the complaint be filed without prepayment of the full filing fee.

IT IS FURTHER ORDERED that, in accordance with 28 U.S.C. § 1915, the prisoner-plaintiff owes the Court the total filing fee of 350.00. An initial partial filing fee of \$ _____ Must be paid within thirty (30) days of the date this is filed. Failure to remit the initial partial filing fee may result in dismissal of your case. Thereafter, monthly payments shall be forwarded to the Court in accordance with 28 U.S.C. § 1915.

Date United States Magistrate Judge

IT IS RECOMMENDED that the request of prisoner-plaintiff to file the action without prepayment of the full filing fee is: filing fee be **DENIED** for the following reason(s):

- Inadequate showing of indigency
- Legally and/or factually patently frivolous
- Failure to authorize disbursements from prison trust account to pay filing fee
- Other: _____
- District Court lacks jurisdiction
- Immunity as to _____
- Failure to provide certified copy of trust fund statement for the last six (6) months.

Comments:

January 10, 2008
Date

[Signature]
United States Magistrate Judge

IT IS ORDERED that the request of prisoner-plaintiff to file the action without prepayment of the full filing fee is:

- GRANTED
- DENIED (See comments above).

JAN 16 2008
Date

[Signature]
United States District Judge

Ronnie O. Brown
 FULL NAME
 14901 Central Ave
 COMMITTED NAME (if different)
 CHINO, CA 91710
 FULL ADDRESS INCLUDING NAME OF INSTITUTION
 K-09434
 PRISON NUMBER (if applicable)

RECEIVED & RETURNED
 CLERK, U.S. DISTRICT COURT
 JAN 31 2008
 CENTRAL DISTRICT OF CALIFORNIA
 BY [Signature] DEPUTY

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

Ronnie O. Brown
 v.
 DEPT ADULT PAROLE OPERATIONS,
 Ricardo Pena F. Sommers
 Jon-Jane de Reynal Adm, et al
 PLAINTIFF,
 DEFENDANT(S).

CASE NUMBER
EDCV08-0011

(JWJ)

To be supplied by the Clerk

CIVIL RIGHTS COMPLAINT
 PURSUANT TO (Check one)

- 42 U.S.C. § 1983
- Bivens v. Six Unknown Agents 403 U.S. 388 (1971)

A. PREVIOUS LAWSUITS

1. Have you brought any other lawsuits in a federal court while a prisoner: Yes No
2. If your answer to "1." is yes, how many? _____

Describe the lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on an attached piece of paper using the same outline.)

LODGED
 CLERK, U.S. DISTRICT COURT
 JAN -7 2008
 CENTRAL DISTRICT OF CALIFORNIA
 BY [Signature] DEPUTY

RECEIVED
 CLERK, U.S. DISTRICT COURT
 DEC 10 2007
 CENTRAL DISTRICT OF CALIFORNIA
 BY [Signature] DEPUTY

a. Parties to this previous lawsuit:

Plaintiff _____

Defendants _____

b. Court _____

c. Docket or case number _____

d. Name of judge to whom case was assigned _____

e. Disposition (For example: Was the case dismissed? If so, what was the basis for dismissal? Was it appealed? Is it still pending?) _____

f. Issues raised: _____

g. Approximate date of filing lawsuit: _____

h. Approximate date of disposition _____

B. EXHAUSTION OF ADMINISTRATIVE REMEDIES

1. Is there a grievance procedure available at the institution where the events relating to your current complaint occurred? Yes No

2. Have you filed a grievance concerning the facts relating to your current complaint? Yes No

If your answer is no, explain why not _____

3. Is the grievance procedure completed? Yes No

If your answer is no, explain why not _____

4. Please attach copies of papers related to the grievance procedure.

C. JURISDICTION

28 U.S.C § 1391

This complaint alleges that the civil rights of plaintiff

Rumie O. Brown

(print plaintiff's name)

who presently resides at

19901 Central Ave Chino, CA 91716

(mailing address or place of confinement)

were violated by the actions of the defendant(s) named below, which actions were directed against plaintiff at

CALIFORNIA INSTITUTION FOR MEN-CHINO

(institution/city where violation occurred)

on (date or dates) 03-12-07
(Claim I) (Claim II) (Claim III)

NOTE: You need not name more than one defendant or allege more than one claim. If you are naming more than five (5) defendants, make a copy of this page to provide the information for additional defendants.

1. Defendant RICARDO PENA resides or works at
(full name of first defendant)
14040 PARK AVE VICTORVILLE, CA 92392
(full address of first defendant)
Peace AGENT - Peace officer
(defendant's position and title, if any)

The defendant is sued in his/her (Check one or both): individual official capacity.

Explain how this defendant was acting under color of law:

peace officer

2. Defendant F. SOMMERS resides or works at
(full name of first defendant)
14040 PARK AVE VICTORVILLE, CA 92392
(full address of first defendant)
Peace AGENT - Peace officer
(defendant's position and title, if any)

The defendant is sued in his/her (Check one or both): individual official capacity.

Explain how this defendant was acting under color of law:

peace officer

3. Defendant NO. 1 - JANE - JANE DOE WARDEN FULSUM STATE PRISON resides or works at
(full name of first defendant)

(full address of first defendant)
warden - Peace officer
(defendant's position and title, if any)

The defendant is sued in his/her (Check one or both): individual official capacity.

Explain how this defendant was acting under color of law:

4. Defendant K. Thacker resides or works at

(full name of first defendant)

(full address of first defendant)

Appeals Coordinator - Peace officer

(defendant's position and title, if any)

The defendant is sued in his/her (Check one or both): individual official capacity.

Explain how this defendant was acting under color of law:

5. Defendant John - June DOE DISTRICT MANAGER resides or works at

(full name of first defendant)

14040 PARK AVE VICTORVILLE, CA 92392

(full address of first defendant)

(defendant's position and title, if any)

The defendant is sued in his/her (Check one or both): individual official capacity.

Explain how this defendant was acting under color of law:

D. CLAIMS*

CLAIM I

The following civil right has been violated:

Right to freedom of association and free speech with denial of procedural due process of law

Supporting Facts: Include all facts you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be certain you describe, in separately numbered paragraphs, exactly what each DEFENDANT (by name) did to violate your right.

1 on or about March 12, 2007 I was informed that I couldn't employee, contact, or correspond with my son whom I was legal guardian over. Ricardo Pena, F. Sommer's parole agents restricted my freedom of speech, movements, and right to parental relationship without lawful means but utilized a repealed underground rule, regulation, or administrative procedure to deny my contact with my son, which caused a deterioration in our relationship.

2 K. Thacker appeals coordinator denied procedural due process to appeal the condition of parole and refused to process the appeal to the third level and conspired with Jeff Faggot to deny the parental relationship.

*If there is more than one claim, describe the additional claim(s) on another attached piece of paper using the same outline.

1 By means of usage of A Repealed underground
2 Rule, and procedure.

3
4 ③ ^{#1} Jon-Jane Doe Warden Folsom State prison condone, Tolerated
5 and allowed mailroom staff to circumvent procedures
6 outlined by administrative law to confiscate mail
7 Restrict Correspondence, Restrict Freedom of Speech,
8 Without Notice of withholding of mail, OR Right to
9 Appeal The action Taken.

10
11
12 ④ The District manager for ~~§ 1983~~ ^{#2} Jon-Jane Doe allowed
13 condoned, Tolerated, Employee misconduct by Ricardo Pena,
14 F. Sommer's to violate stipulated INJUNCTIVE COURT
15 order's of procedural due process of Valdivia v. Schwarzenegger,
16 to cause Mr. Brown to suffer Loss of his residence,
17 clothing, and livelihood due to Racism and hatred
18 motivated and instilled against Afro Americans by
19 Victorville parole Unit.

20
21
22 ⑤ plaintiff Re alleges and reincorporates paragraph
23 1-4 as the moving force and legal proximate cause
24 to all of plaintiff sustained Injuries.

25

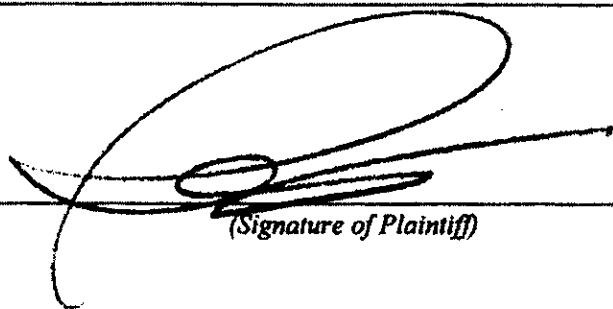
26

E. REQUEST FOR RELIEF

I believe that I am entitled to the following specific relief:

- ① Demand The Sum of \$550,000 IN Damages for and against each named defendant.
- ② Demand TRIAL By Jury.
- ③ Compensatory nominal special damages including punitive damages award.
- ④ Declaratory Relief
- ⑤ Any further order JUST issued by the Court.

12/6/07
(Date)



(Signature of Plaintiff)

EXHIBIT “C”

LOGGED

FILED

2008 SEP 19 PM 12: 21

2008 OCT -6 AM 10: 59

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

INMATE #
K-89434
RONNIE O. BROWN

CASE NUMBER
BY *[Signature]*
EDCV08- 1295 (JWJ)

v. PLAINTIFF(S)

COUNTY OF SAN BERNARDINO ALTERNATIVE
DEFENSE PANEL, BRANDON WOODS ET AL
DEFENDANT(S)

ORDER RE LEAVE TO FILE ACTION
WITHOUT PREPAYMENT OF FULL
FILING FEE

IT IS ORDERED that the complaint be filed without prepayment of the full filing fee.

IT IS FURTHER ORDERED that, in accordance with 28 U.S.C. § 1915, the prisoner-plaintiff owes the Court the total filing fee of \$350.00. An initial partial filing fee of \$ _____ must be paid within thirty (30) days of the date this order is filed. Failure to remit the initial partial filing fee may result in dismissal of your case. Thereafter, monthly payments shall be forwarded to the Court in accordance with 28 U.S.C. § 1915.

Date

United States Magistrate Judge

IT IS RECOMMENDED that the request of prisoner-plaintiff to file the action without prepayment of the full filing fee be DENIED for the following reason(s):

- Inadequate showing of indigency
- District Court lacks jurisdiction
- Failure to authorize disbursements from prison trust account to pay filing fee
- Immunity as to _____
- Failure to provide certified copy of trust fund statement for the last six (6) months.
- Legally and/or factually patently frivolous
- Other: _____

Comments: *Plaintiff is attempting to make a civil rights claim against his court appointed attorney. No allegations of collusion or complicity between attorney and state.*

September 19, 2008

Date

United States Magistrate Judge

IT IS ORDERED that the request of prisoner-plaintiff to file the action without prepayment of the full filing fee is: GRANTED DENIED (See comments above).

OCT - 2 2008

Date

United States District Judge

[Signature]
United States District Judge

Full Name
RONNIE BRAUN
 Committed Name (if different)
2131 W. Cecil Ave
PO Box 551
 Full Address Including Name of Institution
Delano CA 93316
K-19434
 Prison Number (if applicable)

RECEIVED AND RETURNED
 CLERK U.S. DISTRICT COURT
 OCT - 6 2008
 CENTRAL DISTRICT OF CALIFORNIA
 BY CP DEPUTY

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

Ronnie Braun
 Plaintiff,

Case No. CV ED 08-1295 (S)
 (To be supplied by the Clerk)

CIVIL RIGHTS COMPLAINT
 PURSUANT TO (check one)

42 U.S.C. § 1983.

or

Bivens v. Six Unknown Agents
 403 U.S. 388 (1971)

550

vs.
Country of San Bernardino Alternative Defense
Panel - Brandon Woods et al
 Defendants(s).

A. PREVIOUS LAWSUITS

- 1) Have you brought any other lawsuits in a federal court while a prisoner: Yes No
- 2) If your answer to A is yes, how many? _____ Describe the lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on an attached piece of paper using the same outline.)

LODGED
 CLERK, U.S. DISTRICT COURT
 SEP 19 2008
 CENTRAL DISTRICT OF CALIFORNIA
 BY CP DEPUTY

RECEIVED
 CLERK, U.S. DISTRICT COURT
 SEP 17 2008
 CENTRAL DISTRICT OF CALIFORNIA
 BY CP DEPUTY

a. Parties to this previous lawsuit:

Plaintiff _____

Defendants _____

b. Court _____

c. Docket or case number _____

d. Name of judge to whom case was assigned _____

e. Disposition (For example: Was the case dismissed? If so, what was the basis for dismissal? Was it appealed? Is it still pending?) _____

f. Issues raised: _____

g. Approximate date of filing lawsuit _____

h. Approximate date of disposition _____

B. EXHAUSTION OF ADMINISTRATIVE REMEDIES

1) Is there a grievance procedure available at the institution where the events relating to your current complaint occurred?

Yes No

2) Have you filed a grievance concerning the facts relating to your current complaint?

Yes No

If your answer is no, explain why not _____

3) Is the grievance procedure completed?

Yes No

If your answer is no, explain why not

4) Please attach copies of papers related to the grievance procedure.

C. JURISDICTION 28 USC 2253(a)-(4)

This complaint alleges that the civil rights of plaintiff Ronnie O. Brown (print plaintiff's name) who presently resides at 2737 W. Cecil Ave Deland, CA (mailing address or place of confinement) were violated.

by the actions of the defendant(s) named below, which actions were directed against plaintiff at VICTORVILLE CA (institution/city where violation occurred)

on (date or dates) _____ (Claim I) _____ (Claim II) _____ (Claim III)

(You need not name more than one defendant or allege more than one claim; however, make a copy of this page to provide the information below if you are naming more than five (5) defendants.)

1) Defendant Brandon Woods (full name of first defendant) resides or works at Woods Dr Victorville, CA (full address of first defendant) and is employed as ATTORNEY AT LAW (defendant's position and title; if any)

The defendant is sued in his/her: individual official capacity. (Check one or both).

Explain how this defendant was acting under color of law:

MUNICIPALITY

2) Defendant _____ (full name of second defendant) resides or works at _____

_____ and is employed as _____
(full address of second defendant)

(defendant's position and title, if any)

The defendant is sued in his/her: individual official capacity. (Check one or both).
Explain how this defendant was acting under color of law:

3) Defendant _____ resides or works at _____
(full name of third defendant)

_____ and is employed as _____
(full address of third defendant)

(defendant's position and title, if any)

The defendant is sued in his/her: individual official capacity. (Check one or both).
Explain how this defendant was acting under color of law:

4) Defendant _____ resides or works at _____
(full name of fourth defendant)

_____ and is employed as _____
(full address of fourth defendant)

(defendant's position and title, if any)

The defendant is sued in his/her: individual official capacity. (Check one or both).
Explain how this defendant was acting under color of law:

5) Defendant

(full name of fifth defendant)

resides or works at

(full address of fifth defendant)

and is employed as

(defendant's position and title, if any)

The defendant is sued in his/her: individual official capacity. (Check one or both).

Explain how this defendant was acting under color of law:

E. CLAIMS*

CLAIM I

The following civil right has been violated:

Supporting Facts: [Include all facts you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be certain you describe, in separately numbered paragraphs, exactly what each DEFENDANT (by name) did to violate your right].

plaintiff was appointed an attorney Brandon Woods whom had NOT been trained to observe procedural process of attorney client


there is more than one claim, describe the additional claim(s) on another attached piece of paper using the outline.

Relationship, Lack Knowledge in Rule of Professional Conduct
and Business Professions and ~~about~~ plaintiff means
of communicating. As a legally blind ~~etc.~~ client, plaintiff
was not allowed to communicate with attorney effectively, the
attorney and county alternative dispute panel had ^{no} ~~no~~ grievance
procedure, would not except telephone calls from clients and
gave no address. plaintiff was unable to inform the
county counsel alternative dispute of his disability needs
concerns for representation, cause he was blind.
and no reasonable accommodations was afforded. During any
proceedings by ~~the~~ Brandenwoods or the courts, cause plaintiff
was blind.

F. REQUEST FOR RELIEF

I believe that I am entitled to the following specific relief:

1. Plaintiff Demands The Sum of 2 million dollars for on against
each named defendant in ~~the~~ Brandenwoods or ~~the~~ courts
2. punitive damages in amount of 6 million dollars for and against
each named defendant for damages
3. Demand ~~the~~ ~~sum~~ ~~of~~ ~~2~~ ~~million~~ ~~dollars~~
4. declaratory Judgment ~~plaintiff~~ ~~rights~~
5. Further orders ~~to~~ ~~be~~ ~~granted~~ ~~Just~~ ~~if~~ ~~fair~~

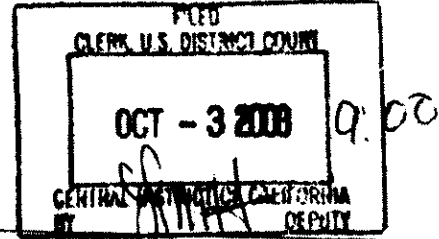

(Signature of Plaintiff)

9/10/00
(Date)

EXHIBIT “D”

LODGED

2008 SEP 25 AM 11:35



CLERK OF DISTRICT COURT
CENTRAL DISTRICT OF CALIF.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

BY *[Signature]*

INMATE #

K-89434
RONNIE O. BROWN

V.

PLAINTIFF(S)

LEE BACA, ET AL.

DEFENDANT(S)

CASE NUMBER

CV08-6311 (JWJ)

ORDER RE LEAVE TO FILE ACTION
WITHOUT PREPAYMENT OF FULL
FILING FEE

IT IS ORDERED that the complaint be filed without prepayment of the full filing fee.

IT IS FURTHER ORDERED that, in accordance with 28 U.S.C. § 1915, the prisoner-plaintiff owes the Court the total filing fee of \$350.00. An initial partial filing fee of \$ _____ must be paid within thirty (30) days of the date this order is filed. Failure to remit the initial partial filing fee may result in dismissal of your case. Thereafter, monthly payments shall be forwarded to the Court in accordance with 28 U.S.C. § 1915.

Date

United States Magistrate Judge

IT IS RECOMMENDED that the request of prisoner-plaintiff to file the action without prepayment of the full filing fee be DENIED for the following reason(s):

- Inadequate showing of indigency
- District Court lacks jurisdiction
- Failure to authorize disbursements from prison trust account to pay filing fee
- Immunity as to _____
- Failure to provide certified copy of trust fund statement for the last six (6) months.
- Legally and/or factually patently frivolous
- Other: _____

Comments:

Plaintiff's allegations on their face do not state a viable civil rights claim. Based on plaintiff's extensive case filings in this district, it is clear that plaintiff has had substantial and unfettered access to the court.

Sept. 26, 2008

Date

United States Magistrate Judge

IT IS ORDERED that the request of prisoner-plaintiff to file the action without prepayment of the full filing fee is: GRANTED DENIED (See comments above).

OCT - 2 2008

Date

[Signature]
United States District Judge

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Ronnie O. Brown
A-8949A
2737 W. Cecelia
Delano, CA 93215
In Prose

2254	1983
FILING FEE PAID	
Yes	No
BY MOTION BEING	
Yes	No
COMPLAINT TO	
Court & Judge	

FILED
AUG 28 2008
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY [Signature] DEPUTY

RECEIVED & RETURNED
CLERK, U.S. DISTRICT COURT
OCT - 3 2008
CENTRAL DISTRICT OF CALIFORNIA
BY [Signature] DEPUTY

2008 SEP 25 AM 11:36

CLEARING COURT
CENTRAL DISTRICT OF CALIF.
BY [Signature]

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CV08-6311 (JWJ)
'08 CV 1580 BEN PCL

Ronnie O. Brown,
Plaintiff,

V.
LEE BACA, LA. CO. SHERIFF,
Lawrence, Beach, Allen,
Choi, Arron M. Fontana
ATTORNEY'S AT LAW. et
Defendants

Case NO. 08-1580
Civil Rights Complaint
42 USC § 1981, 1983, 1985
UNruh Act Civ. R. 17, 92

I.
Parties

1. Ronnie O. Brown is a state prisoner and a Competent adult and United States Citizen of America and current Resident of CA. Located 2737 W. Cecelia Delano, CA 93215 Lee Baca is The Los Angeles County Sheriff, Strickland, Lawrence, Beach, Allen Choi, and Arron M. Fontana are Retained Counsel representing Lee Baca Sheriff and County of Los Angeles. all current Residents of Los Angeles County.

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II
INTRODUCTION

2. This is A civil rights Complaint coming under 42 U.S.C 1981, 1983, and 1985 for civil rights violation by persons acting under color of Law and/or private persons whom has conspired to deny the equal protections of Laws, Constitutions, Treaties, and/or privileges and immunities from giving effect, while working as An attorney for Lee Baca Sheriff L.A. County. Said Lawfirm did willfully unlawfully, and Recklessly, attempt to deny plaintiff A remedy of Relief To procedural Enforcement of the Civil rights Act each of them acting in concert.

III
Jurisdiction

3. 28 U.S.C § 1391(b) 28 U.S.C § 1393 (a)-(b), Federal Question Demand for Jury trial.

IV
Statements of Claims

4. plaintiff is a legally blind state prisoner UNDER ADA and LITIGANT TO BROWN VS Baca CIV-07-00819 CAS JWJ, And on June 15, 2008 Arron M. Fontanna having recieved written notice of A court order to take all steps necessary to assist plaintiff to have access to A court proceeding denied with disobedience the court order and also denied documents requested by

1 Said individual Arron M. Fontana and Lee Baca Sheriff
2 Both working in concert discriminated against the
3 plaintiff cause he his blind and disobeyed the
4 Court order.
5

6 5. plaintiff was denied ~~procedural~~ ^{Court} assistance to
7 a proceeding or denied equal protections of Laws to
8 participate by filing legal documents to a civil
9 rights Act before a court because retained attorneys
10 Lawrence, Beach, Allen, Choic, and Arron Fontana
11 conspired together to deny equal protections of the
12 laws and withhold a reasonable assistance to a
13 pretrial detain after ordered by a court to do so.
14 plaintiff is legally blind ordered by a doctor not
15 reading fine print and defendant wouldn't assist.
16 plaintiff because of his handicapp of being
17 blind after requested by the plaintiff to help.
18
19

IV
Relief

- 20 b. 1. plaintiff demands the sum of \$800,000 from each named
21 defendant for compensatory, nominal damages.
- 22 2. punitive damages in the about of 10 million dollars
23 for and against each named defendant.
- 24 3. Demand by Jury
- 25 4. Declaratory Relief of plaintiff rights
- 26 5. Just and further order by the court.

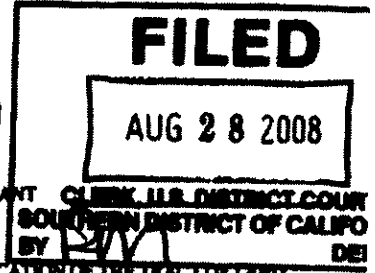
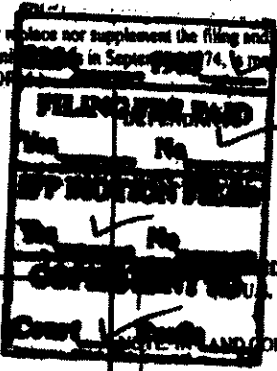
CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is prepared for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

I (a) PLAINTIFFS

Ronnie O. Brown

Baca, et al



(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF (EXCEPT IN U.S. PLAINTIFF CASES) Kern

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT PLAINTIFF CASES ONLY

CLERK, U.S. DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Ronnie O. Brown
PO Box 4999
Delano, CA 93215
K-89434

ATTORNEYS (IF KNOWN)

'08 CV 1580 BEN PCL

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PT | DEF | | PT | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

42 U.S.C. 1983

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> Marine <input type="checkbox"/> Miller Act <input type="checkbox"/> Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> Other Contract <input type="checkbox"/> 193 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 336 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Medical Malpractice <input type="checkbox"/> 363 Personal Injury - Product Liability <input type="checkbox"/> 364 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Torts in Landing <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 383 Property Damage Product Liability <input type="checkbox"/> 390 Civil Rights	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Release of Property 21 USC81 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appul 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 137 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 MHA (17998) <input type="checkbox"/> 862 Black Lung (933) <input type="checkbox"/> 863 DMC/DWV (480(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 SSA/SSNAct FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reappointment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Bonds and Rebbling <input type="checkbox"/> 450 Comsumer/ICC Rate/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Substitution Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 898 Appeal of Fee Discrimination Under Equal Access to Justice <input type="checkbox"/> 998 Constitutionality of State <input type="checkbox"/> 999 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Easement <input type="checkbox"/> 240 Tort to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 250 AR Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Walkers <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights			

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

- 1 Original Proceeding
- 2 Removal from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER f.r.e.p. 23

DEMAND \$

Check YES only if demanded in complaint:

JURY DEMAND: YES NO

VIII. RELATED CASE(S) IF ANY (See Instructions):

JUDGE

Docket Number

DATE 8/28/2008

SIGNATURE OF ATTORNEY OF RECORD

D. Miller