

Plaintiff's Name GARRICK HARRINGTON
Inmate No. P-28306
Address CALIFORNIA STATE PRISON - SOLANO
P.O. BOX 400 [A-4-103-L]
VACAVILLE, CALIFORNIA 95696-4000

ORIGINAL

FILED

AUG 14 2013

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY: [Signature]
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GARRICK HARRINGTON

1:10-CV-01802-LJO--SAB (PC)

(Name of Plaintiff)

(Case Number)

vs.

AMENDED COMPLAINT

Civil Rights Act, 42 U.S.C. § 1983

JURY TRIAL DEMANDED

C/O J. BAUTISTA
C/O J. BLAYLOCK
C/O S.L. RÜPP
C/O B. HACKWORTH
SGT. L. JAMES
JOHN DOES 1 - 6

(Names of all Defendants)

RECEIVED

AUG 14 2013

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY: [Signature]
DEPUTY CLERK

I. Previous Lawsuits (list all other previous or pending lawsuits on back of this form):

A. Have you brought any other lawsuits while a prisoner? Yes XX No

B. If your answer to A is yes, how many? 1

Describe previous or pending lawsuits in the space below.
(If more than one, use back of paper to continue outlining all lawsuits.)

1. Parties to previous lawsuit:

Plaintiff GARRICK HARRINGTON

Defendants A.K. SCRIBNER Warden, V. YAMAMOTO, L.L. WOODS, R.R. LOWDEN,
Sgt. FUHROLDT, C/O HICKS

2. Court (if Federal Court, give name of District; if State Court, give name of County)
United States District Court - Eastern District of California

3. Docket Number 1:05-00624-OWW-GSA 4. Assigned Judge O. WANGER

5. Disposition (For example: Was the case dismissed? Was it appealed? Is it still pending?)
APPEAL PENDING (9TH CIRCUIT)

6. Filing date (approx.) 05/11/05

7. Disposition date (approx.)

(PC)Harrington v. Bautista et al

Doc. 36 Att. 2

II. Exhaustion of Administrative Remedies

A. Is there an inmate appeal or administrative remedy process available at your institution?

Yes XX No

B. Have you filed an appeal or grievance concerning ALL of the facts contained in this complaint?

Yes XX No

If your answer is no, explain why not _____

C. Is the process completed?

Yes XX If your answer is yes, briefly explain what happened at each level.

PARTIALLY GRANTED at Second Level - Treated as STAFF COMPLAINT, inquiry into allegation of misconduct. Staff found to have violated policy in respect to one or more of issues raised.

DENIED at Third Level - claiming staff personnel matters are confidential
No If your answer is no, explain why not.

NOTICE: Pursuant to the Prison Litigation Reform Act of 1995, “[n]o action shall be brought with respect to prison conditions under [42 U.S.C. § 1983], or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.” 42 U.S.C. § 1997e(a). If there is an inmate appeal or administrative remedy process available at your institution, you may not file an action under Section 1983, or any other federal law, until you have first completed (exhausted) the process available at your institution. You are required to complete (exhaust) the inmate appeal or administrative remedy process before filing suit, regardless of the relief offered by the process. Booth v. Churner, 532 U.S. 731, 741 (2001); McKinney v. Carey, 311 F.3d 1198, 1999 (9th Cir. 2002). **Even if you are seeking only money damages and the inmate appeal or administrative remedy process does not provide money, you must exhaust the process before filing suit. Booth, 532 U.S. at 734.**

III. Defendants

(In Item A below, place the full name of the defendant in the first blank, his/her official position in the second blank, and his/her place of employment in the third blank. Use item B for the names, positions and places of employment of any additional defendants.)

A. Defendant J. BAUTISTA is employed as CORRECTIONAL OFFICER
at CSP - CORCORAN

B. Additional defendants J. BLAYLOCK is employed as a CORRETIONAL OFFICER at CSP-CORCORAN; S.L. RUPP is employed as a CORRECTIONAL OFFICER at CSP-CORCORAN; B. HACKWORTH is employed as a CORRECTIONAL OFFIER at CSP-CORCORAN; L. JAMES is employed as a CORRECTIONAL SERGEANT at CSP-CORCORAN; JOHN DOES (1 - 6) are employed as various transportaiton fleet supervisors, and medical supervising personnel responsible for off-site medical transportation.

IV. Statement of Claim

(State here as briefly as possible the facts of your case. Describe how each defendant is involved, including dates and places. Do not give any legal arguments or cite any cases or statutes. Attach extra sheets if necessary.)

SEE ATTACHED FOR STATEMENT OF CLAIMS AND RELIEF SOUGHT


V. Relief.

(State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.)

SEE ATTACHED FOR STATEMENT OF CLAIMS AND RELIEF SOUGHT

I declare under penalty of perjury that the foregoing is true and correct.

Date 8/09/13

Signature of Plaintiff 

(revised 2/10/2006)

ORIGINAL

1 Garrick Harrington P-28306
CALIFORNIA STATE PRISON - SOLANO
2 P.O. Box 4000 [A-4- 103L]
Vacaville, California 95696-4000
3

4 In propia persona
5

6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF CALIFORNIA
8

9 GARRICK HARRINGTON,) No. 1:10-CV-01802-LJO-SAB (PC)
10 Plaintiff,) AMENDED COMPLAINT
11 v.) Civil Rights Act, 42 USC § 1893
12 J. BAUTISTA, J. BLAYLOCK,) JURY TRIAL DEMANDED
13 S.L. RUPP, B. HACKWORTH,)
14 L. JAMES, AND SIX UNKNOWN)
TRANSPORTATION AND MEDICAL)
ADMINISTRATORS.,)
15 Defendants.)

16

17 Plaintiff alleges as follows:

18 I. INTRODUCTION

19 This is an amended civil rights complaint for declaratory relief
20 and monetary damages brought under deliberate indifference, willful
21 misconduct, grossly negligent violation of the legal rights of
22 plaintiff GARRICK HARRINGTON while he was incarcerated at the
23 California State Prison-Corcoran by defendants J. BAUTISTA, J.
24 BLAYLOCK, S.L. RUPP, B. HACKWORTH, California Department of
25 Corrections and Rehabilitation Correctional Officers at Corcoran at
26 all times described within the complaint; L. JAMES, California
27 Department of Corrections and Rehabilitation Correctional Sergeant
28 in charge of institutional Transportation at all times described

1 within the complaint; and **SIX UNKNOWN TRANSPORTATION AND MEDICAL**
2 **ADMINISTRATORS**, employed at Corcoran at all times described within
3 the complaint.

4 **II. JURISDICTION AND VENUE**

5 1. This is a civil rights action filed by **GARRICK HARRINGTON**, a
6 state prisoner, to redress the deprivation under color of state law
7 of rights, privileges and immunities guaranteed by the Eighth
8 Amendment of the United States Constitution. This Court has
9 jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343.

10 2. The Court has supplemental jurisdiction over the plaintiff's
11 state law tort claims of willful misconduct, gross negligence,
12 deliberate indifference, breach of duty of care, and negligent
13 operation of a motor vehicle in state service causing injuries and
14 damages to plaintiff under 28 U.S.C. § 1367.

15 3. This matter has been properly and timely exhausted under all
16 administrative guidelines of 155CCR § 3084.1 et.seq., and
17 California Government Code §§ 905.2, 910, 911.2, 945.4, 945.6 and
18 950-950.2, and are in compliance with the California Government
19 Claims Act.

20 4. This Court has jurisdiction over plaintiff's action for
21 declaratory relief pursuant to 28 U.S.C. § 2201 and Rule 57 of the
22 Federal Rules of Civil Procedure.

23 5. Venue is proper in the Eastern District of California under 28
24 U.S.C. §1391 because events giving rise to the claims were caused
25 by Correctional Officers employed at Corcoran where the plaintiff's
26 transportation originated from and where plaintiff was incarcerated
27 at during all times described within this complaint.

28 **III. PARTIES**

1 6. Plaintiff **GARRICK HARRINGTON** was incarcerated at California
2 State Prison-Corcoran during all events described in the complaint.

3 7. Defendants **J. BAUTISTA, J. BLAYLOCK, S.L. RUPP** and **B. HACKWORTH**
4 were correctional officers employed at CSP-Corcoran at all times
5 relevant to this matter. They are sued in their individual
6 capacities.

7 8. Defendant **L. JAMES** was a correctional sergeant at CSP-Corcoran
8 responsible for the direct supervision of transportation of inmates
9 to "off-site" medical appointments emanating from the institution at
10 all times relevant to this lawsuit. He is sued in his individual
11 capacity.

12 9. **UNKNOWN DEFENDANTS 1, 2, and 3** were administrators and
13 supervisors of the institutional transportation department at CSP-
14 Corcoran responsible for transportation officer safety training and
15 compliance while transporting prisoners and fleet administrators
16 responsible for fleet safety/first aid equipment in transportation
17 vehicles that were assigned to the institution. They are sued in
18 their individual and official capacities.

19 10. **UNKNOWN DEFENDANTS 4, 5, and 6** were medical administrators
20 responsible for care of prisoners transported to "off-site"
21 medical appointments for surgical and/or other medical procedures.
22 They are sued in their individual and official capacities.

23 11. All the defendants have acted, and continue to act, under
24 color of state law at all times relevant to this complaint, and
25 each of them were employees of the California Department of
26 Corrections and Rehabilitation.

27 **IV. FACTUAL ALLEGATIONS**

28 12. On Friday, September 26, 2008, plaintiff was removed from his

1 cell at CSP-Corcoran (facility 3A), at approximately 0500 hours, by
2 defendant correctional officers J. BAUTISTA and J. BLAYLOCK, to be
3 transported to an "off-site" medical appointment at the California
4 Pain Institute located in BAKERSFIELD, California (CB & CC clinic).

5 13. Plaintiff, who at the time used an abulatory assistive device
6 (wooden cane), due to a mobility impairment, was placed in "waist
7 chains" with his hands "shackled" by the two correctional officers.

8 14. Plaintiff was escorted by defendants BAUTISTA and BLAYLOCK to
9 a corrections transportation van and placed in the large rear
10 compartment of the van.

11 15. Prior to the plaintiff being ordered to enter the rear of the
12 van, defendant BAUTISTA had to release and lower a type of "step
13 ladder" prior to opening the security cage of the van's rear area.
14 Because the security cage door would not open until the "step
15 ladder" was lowered fully.

16 16. Because of plaintiff's inability to utilize his hands, and his
17 mobility impairment, defendants BAUTISTA and BLAYLOCK had to
18 physically assist plaintiff in climbing the "step ladder" to enter
19 the rear compartment of the vehicle.

20 17. After plaintiff had entered the rear compartment of the van as
21 directed by the defendants, his legs were placed in "leg manacles"
22 by defendants BAUTISTA and BLAYLOCK.

23 18. Plaintiff did not see or notice, nor was he offered, a seat
24 belt by either defendant BAUTISTA or BLAYLOCK.

25 19. After plaintiff's legs were placed in "manacles" and the rear
26 van compartment security cage door was secured, defendant BAUTISTA
27 entered the vehicle's driver seat and drove to another part of the
28 institution with defendant BLAYLOCK riding in the passenger front

1 seat.

2 20. Defendant **BAUTISTA** then drove to another part of the prison
3 and met with defendants **RUPP** and **HACKWORTH** who were transporting
4 another prisoner to the same "off-site" medical facility in a
5 different van.

6 21. After travelling to the "off-site" location of the medical
7 appointment - California Pain Institute (CB&CC clinic) - defendant
8 "backed" the vehicle into a parking stall in the CB&CC clinic's
9 parking lot.

10 22. The other vehicle driven by defendant **RUPP** with defendant
11 **HACKWORTH** in the passenger side front seat parked directly next to
12 the van that plaintiff was transported to the medical facility in.

13 23. After the vehicle that plaintiff was transported in was
14 stopped and defendant **BAUTISTA** attempted to lower the "step ladder"
15 to open the security cage door, it was noticed that the door would
16 not open because the rear of the vehicle was overhanging the side-
17 walk curb which would not allow for the "step ladder" to lower
18 fully.

19 24. Defendant **BAUTISTA** pulled the vehicle forward until defendant
20 **BLAYLOCK** told him that the rear of the vehicle was clear of the
21 sidewalk curb so the "step ladder" could be fully lowered and
22 the security cage door opened.

23 25. After plaintiff was removed from the rear compartment of the
24 van defendant **BAUTISTA** re-entered the driver seat and backed the
25 vehicle fully into the parking stall while defendant's **BLAYLOCK**,
26 **RUPP**, and **HACKWORTH** stood with the plaintiff and the other prisoner
27 who was transported to the "off-site" medical facility.

28 26. Plaintiff noticed that the other prisoner who had been brought

1 to the "off-site" medical facility in the other van had been placed
2 in a forward middle compartment of the van that defendant RUPP was
3 driving that was accessible through the middle side doors of the
4 vehicle.

5 27. At this point while plaintiff was standing with defendants
6 BLAYLOCK, RUPP, and HACKWORTH, plaintiff specifically asked
7 defendant BLAYLOCK if he could be placed in the middle compartment
8 of the van he was transported in when returning to Corcoran at the
9 conclusion of the medical treatment.

10 28. Plaintiff was not given a definitive answer but instead told
11 "I'd imagine so, " by defendant BLAYLOCK while both defendants RUPP
12 and HACKWORTH remained silent.

13 29. During the medical appointment plaintiff was seen by Dr. A.
14 Palencia, who placed plaintiff under anesthesia until unconscious
15 and gave plaintiff injections in his lower back and spine - facette
16 joints and SI/L5.

17 30. Plaintiff woke up in a recovery bed at the medical facility
18 with defendants BAUTISTA, BLAYLOCK, RUPP, and HACKWORTH present.

19 31. While plaintiff was lying in the recovery bed area defendant
20 BAUTISTA described how when he saw Dr. Palencia insert an a needle
21 that was about five inches long into the plaintiff's back area and
22 he did not flinch or even move he knew plaintiff was "out".

23 32. After approximately fifteen minutes plaintiff was escorted back
24 to the transport van by defendants BAUTISTA, BLAYLOCK, RUPP, and
25 HACKWORTH along with the other prisoner who was transported to the
26 medical facility in the other transport van.

27 33. Plaintiff was still under the effects of the anesthesia and had
28 to be physically guided back to the van by the escorting correction

1 officer defendants.

2 34. After arriving at the transport van plaintiff asked defendants
3 BAUTISTA and BLAYLOCK to be placed in the middle forward compartment
4 of the transport van but was told no by defendant BAUTISTA and that
5 plaintiff would be once again placed in the larger rear compartment
6 of the transport van.

7 35. In order to place plaintiff in the rear compartment defendant
8 BAUTISTA had to once again pull the van forward to clear the side-
9 walk curb so that the "step ladder" leading to the rear compartment
10 of the transport van could be lowered fully and allow the security
11 cage door to open.

12 36. While the van was being pulled forward, defendants RUPP and
13 HACKWORTH were asked to stand "security" over plaintiff along with
14 defendant BLAYLOCK by defendant BAUTISTA.

15 37. Defendants RUPP and HACKWORTH obliged the request of BAUTISTA
16 after they had secured the other prisoner transported in the other
17 van.

18 38. Plaintiff spoke to defendant BLAYLOCK stating that he thought
19 that he would be placed in the middle forward compartment and
20 expressed that he would rather be placed in that compartment but
21 was ignored by defendant BLAYLOCK.

22 39. After the van was moved forward far enough for the "step
23 ladder" to be fully lowered and the security cage door opened
24 defendant BAUTISTA exited the van and came to the back of the van
25 where the plaintiff and defendants BLAYLOCK, RUPP, and HACKWORTH
26 were waiting.

27 40. Defendant BAUTISTA was specifically asked by plaintiff if he
28 could be placed in the forward middle compartment of the van but was

1 told that he would again be placed in the large rear compartment of
2 the van.

3 41. After was helped into the van's rear compartment by defendant
4 **BAUTISTA** plaintiff's legs were placed in shackles while defendants
5 **BLAYLOCK**, **RUPP**, and **HAKWORTH** looked on.

6 42. Plaintiff was not offered a seat belt nor was he seat belted
7 in by defendant **BAUTISTA**.

8 43. The defendants then entered their respective vehicles and left
9 the parking lot while heading back to Corcoran.

10 44. When travelling back to Corcoran defendant **BAUTISTA** turned to
11 enter the highway "on-ramp" (Highway 99) while "gunning" the van's
12 accelerator.

13 45. As the van made the right turn entering the ramp at the high
14 rate of acceleration plaintiff was thrown inot the air and slammed
15 the left side of his head against the solid steel base of the
16 opposite facing side bench seat in the rear compartment of the
17 van.

18 46. Plaintiff laid on the floor of the van with serious pain in
19 the left side front of his head and noticed that he was now
20 bleeding profusely from that area of his head.

21 47. Plaintiff is unsure whether or not he lost consciousness but
22 began to try to yell "man down!" while attempting to hit the
23 forward rear compartment wall of the van to get the attention of one
24 of the defendnats who were operating the van.

25 48. When dnefendants **BAUTISTA** and **BLAYLOCK** noticed that plaintiff
26 was hurt the van was stopped and the rear doors opened with plaintiff
27 lying face down with bllod coming out of the wound he had just
28 suffered on the front left side of his head.

1 49. Plaintiff was asked if he was okay by defendants **BAUTISTA** and
2 **BLAYLOCK** to which plaintiff answered "no!" and showed the two
3 defendants a hand full of fresh blood that he had wiped from his
4 face.

5 50. Defendant **BAUTISTA** physically picked up plaintiff and sat him
6 on the bench seat in the rear compartment of the van .

7 51. Defendant **BAUTISTA** then forced his hand and arm into the
8 "crease" between the bench seat's back cushion and seat cushion
9 and retrieved a seat belt mechanism that had not been previously
10 visible prior to that time.

11 52. Plaintiff was placed in the "seat belt" by defendant **BAUTISTA**
12 while his head wound was still bleeding profusely.

13 53. It was at this point that defendant **BLAYLOCK** gave plaintiff a
14 napkin that had been wetted with liquid from a drink from her lunch
15 to wipe the blood that was streaming down plaintiff's face.

16 54. Defendant **RUPP** then stated that the transportation vans were
17 just placed in service and did not have first aid kit installed in
18 them.

19 54. During the ensuing time period defendant **BAUTISTA** had walked
20 away from the vicinity of the rear of the van with what appeared
21 to be a cell phone to his ear.

22 55. When defendant **BAUTISTA** returned he stated that the Sergeant
23 directed him to return plaintiff to the institution and not take
24 him to a nearby hospital for emergency treatment.

25 56. Defendant **BAUTISTA** then closed the rear compartment door of
26 the van and entered the driver's compartment.

27 57. After the vehicle began to move and had traveled for roughly
28 two minutes, the van came to a stop.

1 58. Defendants **BAUTISTA** and **BLAYLOCK** came to the rear compartment of
2 the van and then removed plaintiff from the van and began to escort
3 him toward the front of the van.

4 59. Plaintiff was told that the defendants were now going to place
5 him in the front middle compartment of the van that was accessible
6 through the middle side doors of the van.

7 60. While being escorted by the defendants toward the middle van
8 doors plaintiff collapsed due to dizziness and was helped to his feet
9 by the defendants, **BAUTISTA** and **BLAYLOCK**.

10 61. Plaintiff was told to step up into the forward middle section
11 of the van through the van side doors.

12 62. Plaintiff once again collapsed due to dizziness complaining of
13 head pain.

14 63. Plaintiff was assisted to his feet again by defendants and was
15 asked by defendant **BLAYLOCK** if "he was going to make it?"

16 64. Plaintiff replied that he "didn't know." but continued to state
17 that he had now developed a serious headache.

18 65. Plaintiff's complaint of head pain went unresponded to while
19 defendant **BAUTISTA** placed a seat belt on plaintiff, secured the van
20 side doors, and returned to the driver's compartment.

21 66. Defendants **BAUTISTA** and **BLAYLOCK** then proceeded to drive for
22 approximately one hour and forty-five minutes back to Corcoran while
23 plaintiff's head continued to bleed and his head pain intensified.

24 67. Plaintiff was taken to the prison hospital (John D. Klarich
25 Memorial Hospital (JDKMH)) where he was examined by a Dr. Sanchez,
26 who sutured the one and one half inch gash on plaintiff's head and
27 ordered a full set of skull x-rays.

28 68. Plaintiff was not given a "video-taped" interview in accordance

1 with departmental guidelines when an incident occurs during the
2 transportation of inmates.

3 69. Plaintiff was not placed under any observation in accordance
4 with normal treatment after head trauma.

5 70. Plaintiff was returned to the transportation van by defendants
6 BAUTISTA, BLAYLOCK, RUPP, and HACKWORTH, and was taken back to the
7 Central Control gate entering the 3A facility complex where he was
8 then taken back to his cell by wheelchair with a "wrap" on his head
9 over the sutured wound.

10 71. Plaintiff suffered "double vision" and severe headaches for
11 weeks following the incident and was returned to the JDKMH prison
12 hospital three days after the incident because continued "double
13 vision", dizziness, and severe headaches.

14 72. The 3A facility Registered Nurse (Shellburn) stated at that
15 time that she was noting that I had suffered a concussion in her
16 log and that she felt that I may be suffering from post-concussion
17 issues.

18 73. Currently, plaintiff has had continuing problems with the
19 vision in his left eye ("seeing floaters") and was under the care
20 of the Corcoran Ophthalmologist (Sofinski) until plaintiff was moved
21 from Corcoran to the institution of his current location.

22 73. Pursuant to the prison procedure plaintiff filed an appeal
23 contending staff misconduct to which there was an inquiry finding
24 that defendants had violated departmental policy.

25 74. Due to the regulations regarding "Staff Misconduct", plaintiff
26 was not allowed to discover the nature of the affirmed misconduct.

27 75. Plaintiff exhausted his appeal issues concerning the incident
28 through the Victim's Compensation and Government Claims Board.

V. CAUSES OF ACTION

FIRST CAUSE OF ACTION
(42 U.S.C. § 1983, 8th Amendment to U.S.
Constitution, California Constitution,
Article I, section 24.)
(Plaintiff v. BAUTISTA, BLAYLOCK)

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5 76. The allegations contained in paragraphs 1 through 75, inclusive
6 are hereby incorporated by reference.

7 77. Defendants BAUTISTA and BLAYLOCK violated plaintiff's right
8 to be free from cruel and unusual punishment guaranteed to the
9 plaintiff by the Eighth Amendment of the United States Constitution
10 and Article I, section 24 of the California Constitution by their
11 deliberate indifference to the plaintiff's right to personal safety.

12 78. Defendants BAUTISTA and BLAYLOCK violated plaintiff's right to
13 be free from cruel and unusual punishment guaranteed to the plaintiff
14 by the Eighth Amendment of the United States Constitution and
15 Article I, section 24 of the California Constitution by willfull
16 misconduct in violating the Federal and State seat belt laws and the
17 California Department of Corrections and Rehabilitation's internal
18 departmental policy which was plainly a serious risk of hazard to
19 plaintiff in violaiton of his rights.

20 79. Defendant's wrongful actions alleged herein are in violation of
21 42 U.S.C. § 1983 because they have deprived plaintiff of rights,
22 benefits; and priviliges secured by the United States and California
23 California Constitutions.

24 80. Defendants BAUTISTA and BLAYLOCK knew or should have known
25 that their conduct, attitudes and actions created an unreasonable
26 risk of serious harm to plaintiff.

27 81. The actions and conduct of defendants BAUTISTA and BLAYLOCK
28 demonstrate deliberate indifference to plaintiff's Eighth Amendment

1 under the **United States Constitution** and rights under **Article I**,
2 **section 24** of the **California Constitution**.

3 **82.** Defendants **BUATISTA** and **BLAYLOCK** acted under color of state
4 law.

5 **83.** As proximate result of the defendants' violation of plaintiff's
6 right to free from cruel and unusual punishment while he was at
7 Corcoran, plaintiff suffered, is suffering, and will continue to
8 suffer irreparable harm.

9 **84.** As a direct and foreseeable result of defendants' violations of
10 the **Eighth Amendment** and **Article I, section 24**, plaintiff has
11 suffered, is suffering, and will continue to suffer physical injury
12 in the form of problems with the sight in his left eye, headaches,
13 and an unsightly scar on the left side of his head.

14 **85.** As a direct and foreseeable result of the defendants' violation
15 of the **Eighth Amendment** and **Article I, section 24**, plaintiff has
16 suffered, is suffering, and will continue to suffer injuries from
17 pain and suffering, emotional distress, mental distress, and other
18 injuries.

19 **86.** An actual controversy exists between plaintiff and defendants
20 concerning their rights, privileges, and obligations.

21 **87.** Defendants **BAUTISTA'S** and **BLAYLOCK'S** acts were willful,
22 intentional, and wanton disregard of plaintiff's rights, entitling
23 plaintiff to an award of exemplary damages.

24 **SECOND CAUSE OF ACTION**
25 **(42 U.S.C. § 1983, 8th Amendment to U.S.**
26 **Constitution; Article I, section 24**
of the California Constitution)
(Plaintiff v. L. James)

27 **88.** The allegations contained in paragraphs 1 through 87, inclusive
28 are hereby incorporated by reference.

1 89. Defendant L. JAMES violated plaintiff's right to be free from
2 cruel and unusual punishment guaranteed to the plaintiff by the
3 Eighth Amendment of the United States Constitution and Article I,
4 section 24 of the California Constitution by his denial of access to
5 emergency medical attention.

6 90. Defendant JAMES violated plaintiff's right to be free from
7 cruel and unusual punishment guaranteed to the plaintiff by the
8 Eighth Amendment of the United States Constitution and Article I,
9 section 24 of the California Constitution by his denial of access to
10 medical personnel qualified to exercise proper emergency medical
11 judgment concerning plaintiff's head injury, probable concussion,
12 and real possibility of skull fracture or other serious complication
13 from the head trauma suffered by plaintiff during transport.

14 91. Defendant's wrongful actions alleged herein are in violation of
15 42 U.S.C. § 1983 because they have deprived plaintiff of rights,
16 benefits, and privileges secured by the United States and California
17 Constitutions.

18 92. Defendant JAMES acted under color of state law.

19 93. Defendant JAMES knew or should have known that his conduct and
20 actions created an unreasonable risk of serious harm to plaintiff.

21 94. The actions and conduct of the defendant demonstrate deliberate
22 indifference to plaintiff's Eighth Amendment rights under the United
23 States Constitution and rights under Article I, section 24 of the
24 California Constitution,

25 95. Defendant's acts were willful, intentional, and in conscious
26 disregard of plaintiff's rights entitling plaintiff to an award of
27 exemplary damages.

28 **THIRD CAUSE OF ACTION**

(42 U.S.C. § 1983, 8th Amendment to U.S.
Constitution; Article I, section 24
of the California Constitution)
(Plaintiff v. RUPP and HACKWORTH)

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4 96. The allegations contained in paragraphs 1 through 95, inclusive
5 are hereby incorporated by reference.

6 97. Defendants S.L. RUPP and B. HACKWORTH violated plaintiff's right
7 to be free from cruel and unusual punishment guaranteed to the
8 plaintiff by the Eighth Amendment of the United States Constitution
9 and Article I, section 24 of the California Constitution by the non-
10 acitons in overlooking misconduct of defendant BAUTISTA of not
11 placing a seat belt on anesthetized plaintiff and assuring the
12 personal safety of plaintiff while other defendants violated the
13 plaintiff's rights willfully.

14 98. Defendants RUPP and HACKWORTH violated plaintiff's right to be
15 free from cruel and unusual punishment guaranteed to the plaintiff by
16 the Eighth Amendment of the United States Constitution and Article I
17 section 24 of the California Constitution by failing to protect the
18 plaintiff's right to personal safety when they were aware with their
19 personal knowledge that fellow transportation team members,
20 defendants BAUTISTA and BLAYLOCK, were willfully engaging in conduct
21 and actions which were plainly a serious risk of hazard to plaintiff
22 in violation of his rights.

23 99. These defendants' wrongful inactions alleged herein are in
24 violation of 42 U.S.C. § 1983 because they deprived plaintiff of his
25 rights, benefits, and privileges secured by the United States and
26 CaliforniãConstitutions.

27 100. Defendants RUPP and HACKWORTH acted under color of state law.

28 101. Defendants RUPP and HACKWORTH knew or should have known that
their conduct, attitudes of endorsement and indifference, and non-

1 action directly violating their Departmental Code of Conduct
2 assisted in creating an unreasonable risk of serious harm to
3 plaintiff.

4 **102.** The non-action of defendants **RUPP** and **HACKWORTH** are indicative
5 of conduct demonstrating deliberate indifference tot he plaintiff's
6 **Eighth Amendment** rights under the **United States Constitution** and
7 rights under **Article I, section 24** of the **California Constitution**.

8 **103.** As proximate result of these defendants' violation of the
9 plaintiff's right to be free from cruel and unusual punishment while
10 he was at Corcoran, plaintiff suffered, is suffering, and will
11 continue to suffer irreparable harm.

12 **104.** An actual controversy exists between plaintiff and these
13 defendants concerning their rights, privileges, and obligations.

14 **105.** Defendants **RUPP'S** and **HACKWORTH'S** non-actions in violation of
15 their Departmental Code of Conduct were willful, intentional, and
16 wanton disregard of plaintiff's rights, entitling plaintiff to an
17 award of exemplary damages.

18 **STATE CLAIMS**

19 **FIRST CAUSE OF ACTION - Deliberate Indifference**
20 **(Article I, section 24 of**
21 **California Constitution)**

22 **(Plaintiff v. Bautista, Blaylock, Rupp, and Hackworth)**

23 **105.**
24 **106.** The allegations contained in paragraphs 1 through 105
25 inclusive are hereby incorporated by reference.

26 **107.** Defendants **J. BAUTISTA, J. BLAYLOCK, S:L. RUPP, and B.**
27 **HACKWORTH** violated plaintiff's right to be free from cruel and
28 unusual punishment guaranteed to the plaintiff by **Article I, section**
29 **24** of the **California Constitution** by the actions of violating state
and federal law in failing to guarantee plaintiff's personal safety
during transport and other violations of law against plaintiff.

1 108. Defendants BAUTISTA, BLAYLOCK, RUPP, and HACKWORTH acted under
2 color of state law.

3 109. Defendants BAUTISTA, BLAYLOCK, RUPP, and HACKWORTH knew, or
4 should have known; that their actions, or non-actions, conduct,
5 attitudes of endorsement and indifference to violation of plaintiff's
6 personal safety rights created an unreasonable risk of serious harm to
7 plaintiff.

8 110. The actions, or non-actions, of defendants BAUTISTA, BLAYLOCK,
9 RUPP, and HACKWORTH demonstrate deliberate indifference to
10 plaintiff's state law rights under Article I, section 24 of the
11 California Constitution. ==

12 111. As a proximate result of the defendants' violation of the
13 plaintiff's right to be free from cruel and unusual punishment while
14 he was at Corcoran, plaintiff suffered, is suffering, and will
15 continue to suffer irreparable harm.

16 112. Defendants BAUTISTA'S, BLAYLOCK'S, RUPP'S, and HACKWORTH'S acts,
17 or non-acts, were willful, intentional, and wanton disregard of
18 plaintiff's rights, entitling plaintiff to an award of exemplary
19 damages.

20 SECOND CAUSE OF ACTION - Motor Vehicle
21 (Plaintiff v. BAUTISTA and BLAYLOCK)

22 113. The allegations contained in paragraphs 1 through 112,
23 inclusive are hereby incorporated by reference.

24 114. Defendants J. BAUTISTA, J. BLAYLOCK, violated plaintiff's right
25 by negligent operation of the motor vehicle in which plaintiff's
26 injuries were suffered.

27 115. Defendants BAUTISTA and BLAYLOCK were negligent in not securing
28 shackled plaintiff in a seat belt and these acts were proximate cause

1 plaintiff's injuries and damages to plaintiff.

2 116. Defendants BAUTISTA and BLAYLOCK were (1) employed by the
3 Department of Corrections and Rehabilitation; (2) agents of the
4 Department of Corrections and Rehabilitation; and, (3) were
5 entrusted for the safe operations of the motor vehicle in their
6 service for the Department of Corrections and Rehabilitation, and
7 are therefore liable for plaintiff's safety during the transport of
8 plaintiff in the scope of their duties.

9 117. Defendants BAUTISTA and BLAYLOCK acted in violation of the
10 plaintiff's safety rights and their acts were intentional, willful,
11 and purposeful disregard for plaintiff's rights, entitling plaintiff
12 to an award of exemplary damages:

13 **THIRD CAUSE OF ACTION - General Negligence**
14 **(Plaintiff v. RUPP and HACKWORTH)**

15 118. The allegations contained in paragraphs 1 through 117,
16 inclusive are hereby incorporated by reference.

17 119. Defendants S.L RUPP and B. HACWORTH violated plaintiff's
18 rights by their respective non-actions in awareness of their
19 transportation team members, defendants BAUTISTA and BLAYLOCK,
20 purposefully violating plaintiff's guaranteed to personal safety in
21 direct violation of the Departmental regulations concerning the
22 reporting of, or prevention of misconduct by fellow Departmental
23 employees.

24 120. Defendants RUPP'S and HACKWORTH'S intentional non-action and
25 passive endorsement of plaintiff's rights being violated were
26 negligently causal of damages to plaintiff.

27 121. Defendants RUPP and HACKWORTH acted under color of state law.

28 122. Defendants RUPP'S and HACKWORTH'S knowing non-actions were

1 negligent in their duties as Correcitonal officers employed in the
2 transportation of plaintiff who was a state prisoner under their
3 care at the time of the incident.

4 123. Defendants' omissions to act in accordance with their 'Code
5 of Conduct' directives concerning witnessed misconduct were in
6 violation of plaintiff's rights to personal safety and were willful,
7 intentional, and purposeful disregard for plaintiff's rights,
8 entitling plaintiff to exemplary damages.

9 **FOURTH CAUSE OF ACTION - Intentional Tort**
10 **(Willful Misconduct)**
11 **(Plaintiff v. BAUTISTA and BLAYLOCK)**

12 124. The allegations contained in paragraphs 1 through 123,
13 inclusive are hereby incorporated by reference.

14 125. Defendants BAUTISTA and BLAYLOCK violated plaintiff's rights
15 to personal safety by committing willful misconduct in the
16 performance as Correctional Officers assigned to transportation in
17 service of the Department of Correcitons and Rehabilitation.

18 126. Defendants BAUTISTA and BLAYLOCK committed willful misconduct
19 in violating established departmental policy and the duty of care
20 associated with transporting plaintiff, a state prisoner, to and
21 from an off-site medical appointment from Corcoran.

22 127. Defendants BAUTISTA'S and BLAYLOCK'S omissions to act in
23 placing plaintiff, who was shackled hands and legs and could not place
24 a seat belt on himself, in any seat belt or other safety restraining device
25 was intentional, willful, and purposeful disregard of plaintiff's
26 rights, entitling plaintiff to exemplary damages.

27 **FIFTH CAUSE OF ACTION - General Negligence**
28 **(Plaintiff v. L. James)**

128. The allegations contained in paragraph 1 through 127, inclusive

1 are hereby incorporated by reference.

2 129. Defendant **L. JAMES** violated plaintiff's right in unreasonably
3 delaying plaintiff access to emergency medical attention of medical
4 personnel qualified to exercise judgment concerning the head injury
5 suffered by plaintiff in the transportation incident described above.

6 130. Defendant **JAMES** lacked medical qualifications and training nor
7 did he have knowledge of the essential facts to make decision to
8 have plaintiff transported for over one and one-half hours without
9 emergency medical attention after suffering a head injury in the
10 incident described above.

11 131. Defendant **JAMES** intentionally violated Departmental policy
12 concerning documentation of prisoner injuries suffered during
13 departmental transportation as described to plaintiff by a
14 Correctional Captain during an interview after the incident in the
15 response to a 'misconduct' allegation grievance filed by the
16 plaintiff at Corcoran.

17 132. Defendant **JAMES**, as a supervisory officer, directed subordinate
18 officer defendants to circumvent Departmental policy concerning the
19 documentation procedure for prisoner injury incidents during any
20 departmental transportation.

21 133. Defendant **JAMES** acted under color of state law.

22 134. Defendant **JAMES** negligent acts were intentional, willful, and
23 purposeful disregard for plaintiff's need for immediate emergency
24 medical assessment due to a head injury caused by blunt force in
25 violating his rights, entitling plaintiff to an award of exemplary
26 damages.

27 135. An actual controversy exists between plaintiff and defendant
28 concerning their rights, privileges, and obligations.


PRAYER FOR RELIEF

136. Where plaintiff respectfully prays for relief as follows:

1. Issue a declaratory judgment that the defendants' actions complained of herein violate plaintiff's rights under the U.S. Constitution and as otherwise alleged herein, including state law claims;
2. Award plaintiff monetary damages, compensatory and punitive in an amount to be determined at trial;
3. Award plaintiff the cost of suit and reasonable attorney's fees; and,
4. Grant plaintiff such other and further relief as the Court deems just and proper.

DATED: August 9, 2013

Respectfully submitted,


GARRICK HARRINGTON - Plaintiff
In pro se

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

HARRINGTON,

v.

Case Number: 1:10-CV-01802-LJO-SAB

BAUTISTA, et al.,

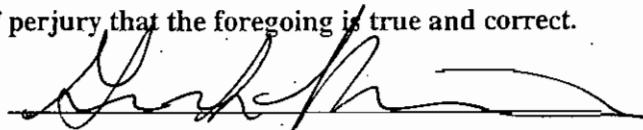
PROOF OF SERVICE

I hereby certify that on AUGUST 9, 2013, I served a copy
of the attached Amended Complaint (Civil Rights Act 42 U.S.C. § 1983
by placing a copy in a postage paid envelope addressed to the person(s) hereinafter
listed, by depositing said envelope in the United States Mail at
California State Prison-Slano (given to proper prison official)

(List Name and Address of Each
Defendant or Attorney Served)

United States District Court
Eastern District of California
2500 Tulare Street, Suite 1501
Fresno, California 93721-2201

I declare under penalty of perjury that the foregoing is true and correct.



(Signature of Person Completing Service)

GARRICK HARRINGTON - Plaintiff