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 RAMON OBAS

8 UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 9 SAN JOSE DIVISION

10 RAMON OBAS,  
 11 Plaintiff,  
 12 v.  
 13 COUNTY OF MONTEREY; and DOES 1-  
 14 50, inclusive.  
 15 Defendants.

CASE NO.: C 09-5540-PVT

**STIPULATION AND ORDER TO FILE  
 FIRST AMENDED COMPLAINT**

**STIPULATION**

18 The Parties hereby stipulate to Plaintiff's filing of a First Amended Complaint in this  
 19 matter, a copy of which is attached hereto as Exhibit A.

22 DATED: April 10, 2010

LAW OFFICE OF JOSEPH S. MAY

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 Joseph S. May, Attorney for Plaintiff,  
 Ramon Obas

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Dated: April 12, 2010

OFFICE OF THE COUNTY COUNSEL,  
COUNTY OF MONTEREY

By: William M. Litt, Attorney for Defendant

Pursuant to General Order 45, §X(B), the filer of  
this document attests that he has received the  
concurrence of this signatory to file this document.

~~PROPOSED~~ ORDER

It is HEREBY ORDERED that Plaintiff is granted leave to file a First Amended  
Complaint, a copy of which is attached as Exhibit A hereto.

DATED: 4/13/10

  
PATRICIA V. TRUMBULL  
United States Magistrate Judge

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5 Attorney for Plaintiff  
RAMON OBAS  
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7

8 UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
9 SAN JOSE DIVISION

10 RAMON OBAS,

11 Plaintiff,

12 v.

13 COUNTY OF MONTEREY; CONAN  
14 HICKEY; CHARLES R. WEST; RICHARD  
RODRIGUEZ; JOHN JEFFERSON;  
15 MICHAEL MUSCUTT; and DOES 1-50,  
inclusive.

16 Defendants.

CASE NO.: C 09-5540-PVT

**FIRST AMENDED COMPLAINT**

17  
18 PLAINTIFF RAMON OBAS alleges as follows:

19 **INTRODUCTION**

20 1. This case involves the arrest by law enforcement officers in an unreasonable, reckless  
21 and deliberately wrongful manner, causing Plaintiff to suffer serious and permanent injuries,  
22 excruciating pain and suffering, and other damages.

23 **JURISDICTION**

24 2. This action arises under 42 U.S.C. §1983 due to the alleged deprivation of Plaintiff's  
25 Constitutional rights under color of state law, and includes state law causes of action based on  
26 the same factual allegations. This Court therefore has jurisdiction over the action pursuant to 28  
27 U.S.C. §§ 1331, 1343, and 1367.  
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**INTRA-DISTRICT ASSIGNMENT**

3. The facts giving rise to this action all arose in Monterey County, California, making the San Jose Division the proper assignment for this action.

**PARTIES**

4. Plaintiff RAMON OBAS is an adult over the age of eighteen and at all times herein alleged was and is a resident of Monterey County, California.

5. Defendant COUNTY OF MONTEREY (hereafter “MONTEREY”) is a political subdivision of the state of California.

6. Defendant CONAN HICKEY is, and at all times relevant hereto was a Monterey County Sheriff’s Office Deputy and a member of the Monterey County Joint Gang Task Force, and is being sued herein in his individual and official capacities.

7. Defendant CHARLES R. WEST is, and at all times relevant hereto was a Monterey County Sheriff’s Office Deputy and a member of the Monterey County Joint Gang Task Force, and is being sued herein in his individual and official capacities.

8. Defendant RICHARD RODRIGUEZ is, and at all times relevant hereto was a Monterey County Sheriff’s Office Sergeant and a member of the Monterey County Joint Gang Task Force, and is being sued herein in his individual and official capacities.

9. Defendant JOHN JEFFERSON is, and at all times relevant hereto was a Special Agent with the California Department of Corrections and Rehabilitation and a member of the Monterey County Joint Gang Task Force, and is being sued herein in his individual and official capacities.

10. Defendant MICHAEL MUSCUTT is, and at all times relevant hereto was an Officer with the Salinas Police Department and a member of the Monterey County Joint Gang Task Force, and is being sued herein in his individual and official capacities.

11. Defendants DOE 1 through DOE 50, inclusive, are as yet unidentified law enforcement officers, supervisors, or other personnel.



1           18. The two men, who turned out to be law enforcement officers, approached Plaintiff,  
2 who was immobilized due to the fall, and placed Plaintiff under arrest. Eventually several more  
3 law enforcement officers arrived at the scene.

4           19. Despite the severe injuries Plaintiff had suffered and his complaints consistent  
5 therewith, the Defendant law enforcement officers turned away the emergency medical service  
6 personnel who were dispatched to the scene.

7           20. Two of the Defendant officers at the scene forced Plaintiff to his feet, causing him to  
8 collapse. The Defendant officers then dragged Plaintiff for several yards and placed him in a  
9 patrol vehicle, whereupon they drove him to Natividad Medical Center in Salinas, California for  
10 treatment.

11           21. Plaintiff made diligent efforts to ascertain the identities of the individual officers  
12 involved in the arrest, but was unable to do so due to the fact that according to the Monterey  
13 County Sheriff's Office and the Salinas Police Department, there are no incident reports  
14 regarding Plaintiff's arrest on October 23, 2008. However, Plaintiff is currently informed and  
15 believes and thereon alleges that the officers who carried out the arrest and transport of Plaintiff  
16 are the individual Defendants named herein.

17           22. On April 20, 2009, Plaintiff submitted timely claims, in accordance with Cal. Gov.  
18 Code §910 et seq., against MONTEREY and the City of Salinas.

19           23. On April 30, 2009, the City of Salinas rejected the claim, indicating that the incident  
20 occurred outside of the city limits, that it had no record of the alleged incident, and that  
21 Plaintiff's claim was not actually against the City of Salinas. However, the City of Salinas's  
22 rejection of Plaintiff's claims materially misled Plaintiff as Plaintiff is currently informed and  
23 believes and thereon alleges that one of the officers involved in Plaintiff's arrest was Salinas  
24 Police Officer Defendant MUSCUTT.

25           24. On May 29, 2009, MONTEREY sent notice of rejection of Plaintiff's Government  
26 Claim.

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1 **FIRST CAUSE OF ACTION - NEGLIGENCE**  
2 **(Against Defendants MONTEREY, HICKEY, WEST, RODRIGUEZ, and MUSCUTT)**

3 25. Plaintiff refers to paragraphs 1-24 of this Complaint and incorporates by  
4 reference the allegations of said paragraphs as though expressly set forth at length at this point.

5 26. Defendants owed a duty to Plaintiff to use reasonable care in carrying out Plaintiff's  
6 arrest.

7 27. Under the circumstances of this case, the Defendant law enforcement officers who  
8 rapidly approached Plaintiff with guns drawn, and without announcing themselves as law  
9 enforcement officers, breached their respective duties of care.

10 28. Under the circumstances of this case, the Defendant law enforcement officers who  
11 denied emergency medical treatment to Plaintiff at the scene of the incident, and the Defendant  
12 officers who attempted to force Plaintiff, who had just fallen from the second story of a building  
13 and had suffered serious injuries to his legs, to stand and walk, all breached their respective  
14 duties of care.

15 29. As a direct and proximate result of the actions of these Defendants, Plaintiff suffered  
16 severe and permanent injuries and has sustained general and special damages in an amount  
17 according to proof at trial.

18 WHEREFORE, Plaintiff prays for judgment as hereinafter set forth.

19 **SECOND CAUSE OF ACTION - BATTERY**  
20 **(Against Defendants HICKEY, WEST, RODRIGUEZ, and MUSCUTT)**

21 30. Plaintiff refers to paragraphs 1-29 of this Complaint and incorporates by  
22 reference the allegations of said paragraphs as though expressly set forth at length at this point.

23 31. In doing the things alleged herein, Defendants acted with the intent to make a contact  
24 with Plaintiff's person, and in fact did make a harmful and offensive contact with Plaintiff's.

25 32. At no time did Plaintiff consent to any of the acts of Defendants alleged herein.

26 33. The aforementioned conduct of Defendants was willful and malicious and was  
27 intended to oppress and cause injury to Plaintiff, entitling Plaintiff to punitive damages.

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1           34. As a direct and proximate result of Defendants’ conduct herein alleged, Plaintiff has  
2 suffered severe and permanent physical damages, pain and suffering, emotional distress, anxiety,  
3 monetary losses, and additional damages in an amount according to proof at trial.

4           WHEREFORE, Plaintiff prays for judgment as hereinafter set forth.

5           **THIRD CAUSE OF ACTION – CIVIL RIGHTS VIOLATION [42 U.S.C. §1983]**  
6           **(As to all Defendants)**

7           35. Plaintiff refers to paragraphs 1-34 of this Complaint and incorporates by  
8 reference the allegations of said paragraphs as though expressly set forth at length at this point..

9           36. In performing the acts and omissions alleged herein, Defendants acted (or failed to  
10 act) under color of state law to deprive Plaintiff of his Constitutional rights, including, but not  
11 limited to the right to be free from unreasonable searches and seizures, secured by the Fourth and  
12 Fourteenth Amendments to the United States Constitution.

13           37. Defendants, and each of them, acted either intentionally to deprive Plaintiff of his  
14 Constitutional rights or with deliberate indifference and/or reckless disregard for such rights.

15           38. Defendant MONTEREY had a custom and/or informal policy of failing to supervise  
16 and/or train its law enforcement officers, which failure directly resulted in the deprivation of  
17 Plaintiff’s constitutional rights.

18           39. As a direct and proximate result of Defendants’ conduct alleged herein, Plaintiff has  
19 suffered damages in an amount according to proof at trial.

20           WHEREFORE, Plaintiff prays for judgment as hereinafter set forth.

21           **PRAYER**

22           WHEREFORE, PLAINTIFF prays for judgment against Defendants, jointly and  
23 severally, for all causes of action, as follows:

- 24           1. For general and special damages, in an amount according to proof at trial;
- 25           2. For punitive damages against those Defendants sued in their individual capacity;
- 26           3. For reasonable attorney’s fees, pursuant to 42 U.S.C. §1988;

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- 4. For costs of suit incurred in this action;
- 5. For such other and further relief as the Court may deem just and proper.

DATED: April \_\_\_\_, 2010

LAW OFFICE OF JOSEPH S. MAY

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Joseph S. May, Attorney for Plaintiff,  
Ramon Obas