

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

FILED BY CLERK OF
 THE BOARD OF SUPERVISORS
 BY _____ DEPUTY

CHARLES HAYES ,

V.

SUMMONS IN A CIVIL CASE

KERN COUNTY ,

CASE NO: 1:19-CV-01722-DAD-JLT

TO: Kern County
 Defendant's Address.

Kern County
 Clerk of the Board of Supervisors
 1115 Truxtun Avenue, 5th Floor
 Bakersfield, CA 93301

Code No _____
 BY ORDER OF THE BD/SUPV
 Referred To _____
County Counsel
24 pages - Hand Delivered
 Copies Furnished _____
Risk Management
 Filed by BD Supv 1-2-2020
 KATHLEEN KRAUSE
 Clerk of the Board of Supervisors
 By *J. D. [Signature]*

YOU ARE HEREBY SUMMONED and required to serve on

Peter Laurence Carr, IV
3756 Santa Rosalia Dr.
Suite 326
Los Angeles, CA 90008

an answer to the complaint which is served on you with this summons, within **21** days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

MARIANNE MATHERLY

CLERK

/s/ S. Sant Agata

(By) DEPUTY CLERK



ISSUED ON 2019-12-11 09:43:25.0 , Clerk
 USDC EDCA

RETURN OF SERVICE

Service of the Summons and complaint was made by me(1)	DATE
NAME OF SERVER (PRINT)	TITLE

Check one box below to indicate appropriate method of service

- ☐ Served personally upon the defendant. Place where served: _____
- ☐ Left copies thereof at the defendant's dwelling house or usual place of bode with a person of suitable age and discretion then residing therein.
- ☐ Name of person with whom the summons and complaint were left: _____
- ☐ Returned unexecuted. _____
- ☐ Other (specify) . _____

STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL
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DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on _____ Date _____ Signature of Server _____

Address of Server _____

Peter L. Carr, IV (SBN 256104)

pcarr@thePLCgroup.com

Na'Shaun L. Neal (SBN 284280)

nneal@thePLCgroup.com

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Attorneys for Plaintiff Charles Hayes

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

CHARLES HAYES, individually.

Plaintiff,

vs.

KERN COUNTY; and DOES 1 through
10, Inclusive,

Defendants.

Case No.

**PLAINTIFF'S COMPLAINT FOR
DAMAGES AND DEMAND FOR
JURY TRIAL**

Plaintiff, CHARLES HAYES, individually complains of Defendants KERN
COUNTY and DOES 1 through 10, inclusive, as follows:

JURISDICTION AND VENUE

1. This Court has original jurisdiction under 28 U.S.C. §§ 1331, 1343 (a)(3)-(4) because Plaintiff asserts claims arising under the laws of the United States that include 42 U.S.C. § 1983 and the Fourth and Fourteenth Amendments of the United States Constitution.

2. This court has supplemental jurisdiction over Plaintiff's claims arising under state law pursuant to 28 U.S.C. § 1367 (a) because those claims are so related to the federal claims that they form part of the same case or controversy under the Article III of the United States Constitution.

3. The venue is proper in the Eastern District of California pursuant to 28 U.S.C. §§ 1391(b) and (e). This court is proper because Defendants reside in this district and the unlawful actions challenged occurred in this district.

PARTIES

4. At all relevant times herein, CHARLES HAYES (hereinafter referred to as "PLAINTIFF" or "Mr. Hayes") was and is an individual residing in the County of Los Angeles.

5. At all relevant times herein, the KERN COUNTY SHERIFF'S DEPARTMENT ("KCSO") was a department of the defendant KERN COUNTY ("COUNTY"), a public entity duly organized and existing under the laws of the State of California, and was responsible for the hiring, retaining, training and supervision of the conduct, policies and practices of its employees and agents of the KCSO and all of its members, agents and employees. KCSO operated the county jail system in Kern County.

6. At all relevant times, Defendants DOES 1-10, individually and as a peace officers, were duly authorized employees and agents of COUNTY, who were acting under color of law within the course and scope of their respective duties as police officers and within the complete authority and ratification of their principal, Defendant COUNTY.

1 7. In doing the acts and failing and omitting to act as hereinafter described,
2 Defendants DOES 1-10, individually and as peace officers, were acting on the
3 implied and actual permission and consent of the COUNTY.

4 8. At all times mentioned herein, each and every COUNTY defendant was the
5 agent of each and every other COUNTY defendant and had the legal duty to oversee
6 and supervise the hiring, conduct and employment of each and every COUNTY
7 defendant.

8 9. PLAINTIFF is unaware of the true names and capacities of those Defendants
9 named herein as DOES 1-10. PLAINTIFF is informed and believes, and thereon
10 alleges that these DOES 1-10 are legally responsible and liable for the incident,
11 injuries, and damages hereinafter set forth, and that each of said Defendants
12 proximately caused the injuries and damages by reason of negligent, careless,
13 deliberately indifferent, intentional, willful, or wanton misconduct, including
14 creating and otherwise causing the incidents, conditions and circumstances
15 hereinafter set forth, or by reason of direct or imputed negligence or vicarious fault
16 or breach of duty arising out of the matters herein alleged. PLAINTIFF will seek
17 leave to amend this Complaint to set forth said true names and identities of the
18 unknown named DOE Defendants when they are ascertained.

19 **FACTS COMMON TO ALL COUNTS**

20 10. On or about November 3, 2018, Mr. Hayes was arrested for resisting arrest
21 and booked erroneously as Devon Jace Robinson at Clark County Detention Center.

22 11. On November 5, 2018, the Las Vegas Metropolitan Police Department
23 determined Mr. Hayes was not Devon Jace Robinson. Despite this knowledge, the
24 unknown jailers continued to detain Mr. Hayes as a fugitive for another case against
25 Devon Jace Robinson in Kern County Superior Court.

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1 12. While awaiting trial in Case No. 18F20591X, Mr. Hayes repeatedly informed
2 the unknown Las Vegas jailers, his public defender and prosecutor of said
3 misidentification. In response, the prosecutor told Mr. Hayes that he would be
4 released immediately if he entered a guilty plea for resisting arrest.

5 13. Despite entering into a plea, Mr. Hayes was detained and transferred to
6 KERN COUNTY as Devon Jace Robinson.

7 14. Once in the custody of Defendant COUNTY, COUNTY wrongfully detained
8 Mr. Hayes as Devon Jace Robinson for over three weeks.

9 15. On information and belief, COUNTY has a policy for processing inmates into
10 the Kern County Jail system by “inmates” information through the following
11 systems: California Law Enforcement Telecommunications System (CLETS)
12 California Wanted Person System, Live Scan fingerprinting system, and DNA to
13 identify and track inmates. As a result of this policy, the inmate’s fingerprints are
14 sent to California Department of Justice (“CDOJ”) to perform a search to determine
15 if the inmate is currently in its system. If no match exists, a new California
16 Identification Index (“CII”) is given. A CII number is an identifier created by the
17 CDOJ and assigned to each set of fingerprints. CII numbers are used to identify
18 criminal suspects and defendants.

19 16. Prior to his booking, Mr. Hayes was previously in the custody of California
20 State Prison system and had CII number. Upon arrival, COUNTY took Mr. Hayes’s
21 fingerprints and DNA. At Mr. Hayes’s arrival into the COUNTY jail system, he
22 renewed his protest with unknown COUNTY jail officials that he was not Devon
23 Jace Robinson.

24 17. Despite repeated requests, unknown COUNTY jail officials, DOES 1-10,
25 failed to investigate this issue. If COUNTY jailers would have investigated this
26 further, they would have learned Mr. Hayes was not Devon Jace Robinson, who also
27 has a unique CII number.

28 ///

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1 18. Furthermore, the height, weight, age and skin color of Mr. Hayes and Devon
2 Jace Robinson are distinctly different. Therefore, anyone reviewing information
3 about Devon Jace Robinson should have readily determined that Mr. Hayes was not
4 Devon Jace Robinson.

5 19. Mr. Hayes filed a timely claim for damages against the County. The County
6 rejected Mr. Hayes' claim.

7 **FIRST CAUSE OF ACTION**

8 **False Arrest & False Imprisonment (42 U.S.C. § 1983)**

9 **(Against Defendants COUNTY and DOES 1-10)**

10 20. Plaintiff incorporates by reference each and every allegation contained in the
11 foregoing paragraphs, as well as any subsequent paragraphs contained in the
12 Complaint, as if fully set forth herein.

13 21. Mr. Hayes was detained without reasonable suspicion or probable cause.

14 22. Defendants possessed exculpatory evidence but deliberately failed and
15 refused to acknowledge the evidence which would have proven that Mr. Hayes was
16 misidentified as Devon Jace Robinson.

17 23. By the above-described acts and/or omissions and/or failure to supervise
18 and/or failure to institute and execute adequate training and policies, as alleged
19 herein, Defendants caused Mr. Hayes to be detained and arrested in violation of his
20 right to be secure in his person against unreasonable searches and seizures as
21 guaranteed to Mr. Hayes under the Fourth Amendment to the United States
22 Constitution and applied to state actors by the Fourteenth Amendment.

23 24. DOES 1-10, individually and as peace officers, are liable for violating Mr.
24 Hayes's Fourth Amendment rights, either because they were integral participants in
25 the wrongful detention and arrest or because they failed to intervene to prevent
26 violations.

27 25. Defendant COUNTY is not sued directly in this cause of action, but rather is
28 named because COUNTY is vicariously liable for the wrongful acts of Defendants,

1 individually and as peace officers, pursuant to section 815.2(a) of the California
2 Government Code, which provides that a public entity is liable for injuries caused by
3 its employees within the scope of the employment if the employee's act would
4 subject him or her to liability.

5 26. As a direct and proximate result of the aforementioned unlawful acts of
6 DOES 1-10, Mr. Hayes sustained and incurred damages for loss of liberty which led
7 to the loss of his job, as well as emotional injury and pain, mental anguish,
8 humiliation, embarrassment and harm to his reputation in the community.

9 27. In doing the foregoing wrongful acts, DOES 1-10 each acted in reckless and
10 callous disregard for Mr. Hayes's constitutional rights. Each wrongful act was
11 willful, oppressive, fraudulent, and malicious, thus warranting the award of punitive
12 damages against each individual DOE Defendant in an amount adequate to punish
13 the wrongdoers and deter future similar misconduct.

14 28. Plaintiff seeks attorney fees under this claim pursuant to 42 U.S.C. § 1988.

15 **SECOND CAUSE OF ACTION**

16 ***MONELL CLAIM (42 U.S.C. § 1983)***

17 **(Against Defendant COUNTY)**

18 29. Plaintiff incorporates by reference each and every allegation contained in the
19 foregoing paragraphs, as well as any subsequent paragraphs contained in the
20 Complaint, as if fully set forth herein.

21 30. All of the acts and omissions by DOES 1-10 described above were carried out
22 under policies and practices of Defendant COUNTY that existed at the time of the
23 conduct alleged, and were engaged in with the full knowledge, consent, and
24 cooperation and under the supervisory authority of Defendant COUNTY and its
25 agency, the KCSD.

26 31. Defendant COUNTY, by its policy-making agents, servants, and employees,
27 authorized, sanctioned, and/or ratified DOE Defendants' wrongful acts, failed to
28 prevent or stop those acts, and/or allowed or encouraged those acts to continue.

32. The acts complained of were carried out by Defendants DOES 1-10 in their capacity as law enforcement under the customs, policies, usages, practices, procedures, and rules of Defendant COUNTY and the KCSD.

33. The aforementioned customs, practices, procedures, and rules of Defendant COUNTY and the KCSD include but are not limited to:

- a. Failing to institute, execute or enforce readily available procedures for decreasing the rise of erroneous detention of individuals in connection with COUNTY warrants;
- b. Failing to institute, execute or enforce readily available procedures for ensuring that information that can identify individuals wanted by the COUNTY, and which can rule out and exclude individuals that are *not* the wanted individual, is stored, maintained, accessed and updated in a reasonable fashion, and that such information is properly and accurately transmitted to other agencies when inquiries are made;
- c. Failing to enact and/or maintain and/or execute policies and procedures to ensure an accurate database system for the recordation and/or tracking of information for wanted individuals, both pre-conviction and post-conviction;
- d. Failing to institute a quality control system that requires reliable verification to occur, to prevent or minimize the wrongful arrest of innocent persons;
- e. Maintaining a database in a deliberately indifferent fashion, which causes or permits the misidentification of innocent persons to be falsely imprisoned;
- f. Failing to train employees on maintaining accurate information correlated with wanted persons, thereby acting with deliberate indifference to the rights of persons that could be falsely arrested/detained/imprisoned as a result of inaccurate information maintained by the COUNTY and transmitted to other governmental entities, as well as other third-parties and entities;
- g. Failing to utilize readily available technological advancements to maintain proper and accurate records concerning wanted individuals, and to exclude

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innocent third-parties whose information may have at some point been wrongfully conflated with that of the wanted person;

- h. Failing to supervise and/or discipline officers or COUNTY employees for negligent and/or reckless conduct that results in the violation of citizens' civil rights;
- i. Failing to institute, maintain or effectively administer an appropriate training regimen on subjects such as: conducting reasonable, adequate and thorough investigations, processing documents and information accurately, as well as verifying information accurately – prior to setting into motion events that will proximately cause the arrest and/or imprisonment of a person, among other liberty deprivations that ensue from an arrest;
- j. Failing to execute a regiment and policies that take into account the foreseeable consequences of setting into motion events that will cause the wrongful arrest and imprisonment of innocent persons;
- k. Failing to have and enforce necessary, appropriate and lawful policies, procedures and training programs to prevent or correct the unconstitutional conduct, customs and procedures described in this Complaint, when the need for such was obvious, or when policymakers for the COUNTY knew or had reason to know of the need yet acted with deliberate indifference to the rights and safety of Plaintiff and the public.

34. These unlawful de facto policies and/or well-settled and pervasive customs and practices are known, encouraged, and/or condoned by supervisory and policy-making officials of Defendant COUNTY and the KCSD.

35. The constitutional violations by the COUNTY, through the actions of KCSD, including DOES 1-10, were proximately caused by the policies, practices, and/or customs developed, implemented, enforced, encouraged, and sanctioned by Defendant COUNTY, described above in subparagraphs (a) through (k).

36. Defendants have acted with deliberate indifference to Mr. Hayes's

1 constitutional rights. As a proximate result of these acts, Mr. Hayes's constitutional
2 rights have been violated, which caused him to suffer loss of liberty which led to the
3 loss of his job, as well as emotional injury and pain, mental anguish and suffering,
4 humiliation, embarrassment and harm to his reputation in the community.

5 37. Plaintiff also seeks attorney fees under this claim pursuant to 42 U.S.C. §
6 1988.

7 **THIRD CAUSE OF ACTION**

8 **NEGLIGENCE (Cal. Govt. Code §§ 815.2(a), 820(a))**

9 **(Against Defendants COUNTY and DOES 1-10, inclusive)**

10 38. Plaintiff incorporates by reference each and every allegation contained in the
11 foregoing paragraphs, as well as any subsequent paragraphs contained in the
12 Complaint, as if fully set forth herein.

13 39. At all material times, Defendants COUNTY and DOES 1-10 owed Plaintiff
14 the duty to act with due care in the execution and enforcement of any right, law or
15 legal obligation.

16 40. At all material times, Defendants COUNTY and DOES 1-10 owed Plaintiff
17 the duty to act with reasonable care.

18 41. These general duties of due care and reasonable care included, but were not
19 limited to, the following specific obligations:

- 20 a. To conduct a reasonable investigation before proximately causing a person to
21 be seized;
- 22 b. To correct information known to be incorrect, in order to prevent innocent
23 persons from being misidentified as wanted suspects, and to prevent innocent
24 persons from being falsely arrested and imprisoned;
- 25 c. To conduct a reasonable investigation before taking actions seeking the arrest
26 or summoning of a person, in order to avoid causing the arrest of an innocent
27 person;
- 28 d. To either follow one's training or seek and obtain proper training on how to

1 conduct a reasonable investigation or correct false information;

2 e. To refrain from foreseeably causing unlawful seizures;

3 f. To refrain from violating citizens' rights, which are guaranteed by the United
4 States and California Constitutions, as set forth above, and which are
5 otherwise protected by law.

6 42. Defendant COUNTY is not sued directly in this cause of action, but rather is
7 named because COUNTY is vicariously liable for the wrongful acts of Defendants,
8 individually and as peace officers, pursuant to section 815.2(a) of the California
9 Government Code, which provides that a public entity is liable for injuries caused by
10 its employees within the scope of the employment if the employee's act would
11 subject him or her to liability.

12 43. By the acts and/or omissions alleged above, Defendants have acted
13 negligently and breached their duty of due care owed to Plaintiff, which foreseeably
14 resulted in the suffering of damages suffered by Plaintiff.

15 44. As a proximate result of Defendants' negligence, Plaintiff sustained injuries
16 and damages, thereby entitling Mr. Hayes to relief. Plaintiff also seeks punitive
17 damages against DOES 1-10 in their individual capacities, as their acts and
18 omissions were willful, wanton, malicious and oppressive. Plaintiff does not seek
19 punitive damages against the COUNTY.

20 **FOURTH CAUSE OF ACTION**

21 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

22 **(Against Defendants COUNTY and DOES 1-10, inclusive)**

23 1. Plaintiff incorporates by reference each and every allegation contained in the
24 foregoing paragraphs, as well as any subsequent paragraphs contained in the
25 Complaint, as if fully set forth herein.

26 2. Defendants DOES 1-10 while working as KCSD Deputies and acting within
27 the course and scope of their duties intentionally detained Mr. Hayes unlawfully.
28 KCSD determined Mr. Hayes was not Devon Jace Robinson, and despite said

1 knowledge, DOES 1-10 continued to detain Mr. Hayes as a fugitive for a case against
2 Devon Jace Robinson.

3 3. In doing the aforementioned acts, DOE Defendants' conduct was intentional,
4 outrageous, malicious, and done for the specific purpose of causing Plaintiff to suffer
5 extreme emotional and physical distress, fear, anxiety, and mental anguish.

6 4. Defendant COUNTY is not sued directly in this cause of action, but rather is
7 named because COUNTY is vicariously liable for the wrongful acts of Defendants,
8 individually and as peace officers, pursuant to section 815.2(a) of the California
9 Government Code, which provides that a public entity is liable for injuries caused by
10 its employees within the scope of the employment if the employee's act would
11 subject him or her to liability.

12 5. As a proximate result of DOE Defendants' intentional infliction of emotional
13 distress, Plaintiff sustained injuries and damages, thereby entitling Mr. Hayes to
14 relief. Plaintiff also seeks punitive damages against DOES 1-10 in their individual
15 capacities, as their acts and omissions were willful, wanton, malicious and
16 oppressive. Plaintiff does not seek punitive damages against the COUNTY.

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PRAYER

WHEREFORE, PLAINTIFF requests entry of judgment in his favor and against Defendants as follows:

1. For compensatory (or general) damages, including pain and suffering, in an amount exceeding the minimum jurisdictional requirement of this Court according to proof;
2. For special damages according to proof;
3. For punitive damages as provided by federal and state law, in an amount to be proved against each individual Defendant;
4. For prejudgment interest;
5. For attorney's fees pursuant to 42 U.S.C. § 1983;
6. For reasonable costs of this suit incurred herein;
7. For such other and further relief as the Court may deem just, proper and appropriate.

Dated: December 6, 2019

PLC LAW GROUP, APC

/s/ Peter L. Carr

Na'Shaun L. Neal

Peter L. Carr, IV

Attorneys for Plaintiff Charles Hayes

DEMAND FOR JURY TRIAL

Plaintiff hereby respectfully demands a trial by jury on all issues and claims.

Dated: December 6, 2019

PLC LAW GROUP, APC

/s/ Peter L. Carr

Na'Shaun L. Neal

Peter L. Carr, IV

Attorneys for Plaintiff Charles Hayes

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CIVIL COVER SHEET

Case 1:19-cv-01722-DAD-JLT Document 2 Filed 12/06/19 Page 1 of 1

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 required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM)

I. (a) PLAINTIFFS

Charles Hayes

DEFENDANTS

Kern County, Does 1-10

(b) County of Residence of First Listed Plaintiff Los Angeles

(IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Kern County

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) Attorneys (Full Name, Address and Telephone Number)

Peter L. Carr / Na'Shaun Neal PLC Law Group, APC
3756 Santa Rosalia Dr Suite 326 Los Angeles, CA 90008

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an 'X' in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
☐ 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)

- | | PTF | DEF | | PTF | 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. 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"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 450 Commerce
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<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers Liability	<input type="checkbox"/> 370 Other Fraud			<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending			<input type="checkbox"/> 400 State Reapportionment		<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 450 Commerce
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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

CHARLES HAYES ,

NO. 1:19-CV-01722-DAD-JLT

Plaintiff(s),

STANDING ORDER

v.

KERN COUNTY ,

Defendant(s).

1. LAW AND MOTION

A. Calendar

The civil law and motion calendar for Judge Drozd is held on the first and third Tuesday of every month commencing at 9:30 a.m. in Courtroom 5, located on the seventh floor. It is not necessary to clear a date prior to scheduling a civil law and motion matter for hearing. All motions shall be noticed for hearing. The parties may indicate in their papers if they wish to submit any motion for decision without oral argument. The court may elect to submit any motion for decision without oral argument and will so advise the parties by minute order in advance of any noticed hearing date. The parties are required to comply with Local Rule 230, or other applicable rules and notice requirements with respect to motions. Finally, telephonic appearances before Judge Drozd are encouraged and parties may do so by dialing 877-402-9757 (access code 6966236) at the time of the hearing. Because the court may be hearing other matters using the

2 appearances are requested. Keep all background noise to a minimum. At least 48 hours prior to
3 the hearing you must email Courtroom Deputy Jami Thorp, at jthorp@caed.uscourts.gov,
4 to advise the court you will be appearing telephonically.

5 **B. Briefing**

6 Unless prior leave of Court is obtained, all moving and opposition briefs or legal
7 memorandum in civil cases shall not exceed 25 pages. Reply briefs filed by moving parties shall not
8 exceed 15 pages. Only for good cause shown will the court grant an application to extend these page
9 limitations. Briefs that exceed the page limitations or are sought to be filed without leave of court may
10 not be considered. Finally, no supplemental briefs shall be filed without prior leave of court¹

11 **C. Meet and Confer Requirement**

12 Prior to filing a motion in a case in which the parties are represented by counsel, counsel
13 shall engage in a pre-filing meet and confer to discuss thoroughly the substance of the
14 contemplated motion and any potential resolution. Counsel should resolve minor procedural or
15 other non-substantive matters during the meet and confer process so that briefing on motions that
16 proceed to hearing is directed only to those substantive issues requiring resolution by the court. **A**
17 **notice of motion shall contain a certification by counsel filing the motion that meet and**
18 **confer efforts have been exhausted, with a very brief summary of meet and confer efforts.**

19 **2. ELECTRONIC FILING**

20 The United States District Court for the Eastern District of California requires electronic
21 filing of documents in all new and pending civil cases in which parties are represented by
22 counsel. A party proceeding without counsel may request authorization to file electronically.
23 Information about the court's Electronic Case Filing system ("ECF") is available on the court's
24 website at www.caed.uscourts.gov/cmecf. See also Local Rule 133.

25 All manually filed documents (those documents excused from the electronic filing
26 requirements by the Local Rules) shall be served as otherwise required by the Federal Rules of
27 Civil Procedure or Local Rule 133.

28 ² Font must be in Times New Roman and no less than 12. Footnotes shall be in typeface no more
than one size smaller than text size.

Counsel are ordered to deliver to the Clerk's Office clearly marked courtesy copies of all electronically filed documents that exceed twenty-five (25) pages, and conformed courtesy copies of all manually filed documents, by either personally delivering them or sending them by guaranteed overnight delivery. *See* Local Rule 133(f). The parties need not provide courtesy copies of answers or shorter pleadings. If a courtesy copy is sent by guaranteed overnight delivery, the sender shall notify the delivery service that the signature of the recipient is not required.

4. PROPOSED ORDERS

Judge Drozd does not require the parties to submit proposed orders with motions to dismiss or motions for summary judgment, but does require the parties to provide proposed consent decrees and proposed findings of fact. If the court does direct the filing of a proposed order, the party should submit it as required by Local Rule 137(b) and email it in Microsoft Word to dadorders@caed.uscourts.gov.

5. EX PARTE APPLICATIONS

Ex parte applications typically are not heard, but are submitted by the court unless otherwise notified. The filer is required to contact the courtroom deputy and the opposing party prior to the filing of the ex parte application in order to advise that such request is being made. In addition, the document(s) must indicate whether or not an opposition will be filed. The filer shall include an affidavit indicating a satisfactory explanation for the following: (1) the need for the issuance of such an order, (2) the inability of the filer to obtain a stipulation for the issuance of such an order from other counsel or parties in the action, and (3) why such request cannot be noticed on the court's motion calendar as provided by Local Rule 230.

6. TROs AND INJUNCTIONS

Parties seeking emergency or provisional relief shall comply with Federal Rule of Civil Procedure 65 and Local Rule 230. The court typically will not rule on any application for such relief for at least twenty-four (24) hours after the party subject to the requested order has been served; such party may file opposing or responding papers in the interim. The parties shall lodge a courtesy copy with chambers of all papers relating to proposed TROs and injunctions, conformed to reflect that they have been filed.

No document will be sealed, nor shall a redacted document be filed, without the prior approval of the court. If a document for which sealing or redaction is sought relates to the record on a motion to be decided by Judge Drozd, the request to seal or redact should be directed to him and not the assigned Magistrate Judge. All requests to seal or redact shall be governed by Local Rules 141 (sealing) and 140 (redaction); protective orders covering the discovery phase shall not govern the filing of sealed or redacted documents on the public docket. The court will only consider requests to seal or redact filed by the proponent of sealing or redaction. If a party plans to make a filing that includes material an opposing party has identified as confidential and potentially subject to sealing, the filing party shall provide the opposing party with sufficient notice in advance of filing to allow for the seeking of an order of sealing or redaction from the court.

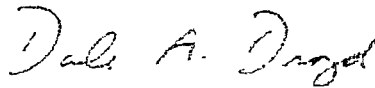
8. FINAL PRETRIAL CONFERENCES

In those cases in which Judge Drozd is conducting the Final Pretrial Conference, the parties are required to submit a Joint Pretrial statement. That Joint Pretrial statement must be filed seven days before the Final Pretrial Conference hearing date and be e-mailed as a Word document to: dadorders@caed.uscourts.gov.

9. NOTICE OF THIS ORDER

Counsel for plaintiff shall immediately serve this order on all parties, including any new parties added to the action in the future, unless this case came to the court by noticed removal, in which case defendant shall serve this order on all other parties.

DATED: December 11, 2019



DALE A. DROZD
U.S. DISTRICT COURT JUDGE

**NOTICE OF AVAILABILITY OF A MAGISTRATE JUDGE
TO EXERCISE JURISDICTION AND APPEAL INSTRUCTIONS**

You are hereby notified in accordance with 28 U.S.C §636(c), F.R.Civ.P.73 and Local Rule 305, the United States Magistrate Judges sitting in Sacramento and Fresno are available to exercise the court's case-dispositive jurisdiction and to conduct any or all case-dispositive proceedings in this action, including motions to dismiss, motions for summary judgment, a jury or non jury trial, and entry of a final judgment. Exercise of this jurisdiction by a Magistrate Judge is however, permitted only if all parties voluntarily consent. You may, without adverse substantive consequences, withhold your consent, but this will prevent the court's case-dispositive jurisdiction from being exercised by a Magistrate Judge.

Any appeal from a judgment entered by a Magistrate Judge is taken directly to the United States Court of Appeals for the Ninth Circuit or, where appropriate, for the Federal Circuit in the same manner as an appeal from any other judgment of a District Court.

Whether or not the parties consent pursuant to 28 U.S.C. § 636(c), the assigned Magistrate Judge will hear all motions except those case-dispositive motions set forth in 28 U.S.C. § 636(b)(1)(A).

A copy of the Form for "Consent to / Decline of Jurisdiction of United States Magistrate Judge" is attached hereto for pro per use and attorney information. This form is available in fillable .pdf format on the court's web site at www.caed.uscourts.gov for all attorney ECF filers. This form may be filed through CM/ECF or by pro se litigants at the appropriate Clerk's Office location.

Office of the Clerk
501 I Street, Room 4-200
Sacramento, CA 95814

Office of the Clerk
2500 Tulare Street, Suite 1501
Fresno, CA 93721

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CHARLES HAYES ,
Plaintiff(s)/Petitioner(s),

vs.

CASE NO. 1:19-CV-01722-DAD-JLT

KERN COUNTY ,
Defendant(s)/Respondent(s).

IMPORTANT

**IF YOU CHOOSE TO CONSENT OR DECLINE TO CONSENT TO JURISDICTION OF
A UNITED STATES MAGISTRATE JUDGE, CHECK AND SIGN THE APPROPRIATE
SECTION OF THIS FORM AND RETURN IT TO THE CLERK'S OFFICE.**

☐ **CONSENT TO JURISDICTION OF UNITED STATES MAGISTRATE JUDGE**

In accordance with the provisions of Title 28, U.S.C Sec. 636(c)(1), the undersigned hereby voluntarily consents to have a United States Magistrate Judge conduct all further proceedings in this case, including trial and entry of final judgment, with direct review by the Ninth Circuit Court of Appeals, in the event an appeal is filed.

Date: _____

Signature: _____

Print Name: _____

() Plaintiff/Petitioner () Defendant/Respondent

Counsel for _____ *

☐ **DECLINE OF JURISDICTION OF UNITED STATES MAGISTRATE JUDGE**

Pursuant to Title 28, U.S.C. Sec 636(c)(2), the undersigned acknowledges the availability of a United States Magistrate Judge but hereby declines to consent.

Date: _____

Signature: _____

Print Name: _____

() Plaintiff/Petitioner () Defendant/Respondent

Counsel for _____ *

**If representing more than one party, counsel must indicate the name of each party responding.*

NOTICE OF AVAILABILITY
VOLUNTARY DISPUTE RESOLUTION

Pursuant to the findings and directives of Congress in 28 U.S.C. §§ 651 *et seq.*, and in recognition of the economic burdens and delay in the resolution of disputes that can be imposed by full formal litigation, Local Rule 271 governs the referral of certain actions to the Voluntary Dispute Resolution Program ("VDRP") at the election of parties. Plaintiff or removing party is to provide all other parties with copies of the notice at the time service is effected or, for parties already served, no more than fourteen (14) days after receiving notice from the Court. After filing of the original complaint or removal action, any party who causes a new party to be joined in the action shall promptly serve a copy of the notice on the new party.

It is the Court's intention that the VDRP shall allow the participants to take advantage of a wide variety of alternative dispute resolution methods. These methods may include, but are not limited to, mediation, negotiation, early neutral evaluation and settlement facilitation. The specific method or methods employed will be determined by the Neutral and the parties.

PLEASE TAKE NOTICE that pursuant to Local Rule 271, *this Local Rule applies to* all civil actions pending before any District Judge or Magistrate Judge in the District except that actions in the following categories are exempt from presumptive inclusion: (i) prisoner petitions and actions, including habeas corpus petitions, (ii) actions in which one of the parties is appearing *pro se*, (iii) voting rights actions, (iv) social security actions, (v) deportation actions, (vi) Freedom of Information Act actions, and (vii) actions involving the constitutionality of federal, state or local statutes or ordinances. The fact that a case falls in a category that is exempt from the presumptive applicability of this Local Rule neither (1) precludes the parties to such a case from agreeing to participate in an Alternative Dispute Resolution ("ADR") process, nor (2) deprives the Court of authority to compel participation in an appropriate ADR proceeding.

Parties may elect Voluntary Dispute Resolution with the Court indicating that all parties to the action agree to submit the action to VDRP pursuant to Local Rule 271. Actions may not be assigned to VDRP over the objection of a party. (Copy of sample stipulation attached hereto.) **At the time of filing, a copy of the stipulation shall be provided to the VDRP Administrator designated below:**

Sacramento Cases
Voluntary Dispute Resolution
Program Administrator
United States District Court
501 "I" Street, Suite 4-200
Sacramento, CA 95814
(916) 930-4278

Fresno Cases
Voluntary Dispute Resolution
Program Administrator
United States District Court
2500 Tulare Street, Suite 1501
Fresno, CA 93721
(559) 499-5600

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

CHARLES HAYES ,

NO: 1:19-CV-01722-DAD-JLT

Plaintiff(s)

v.

**STIPULATION TO ELECT REFERRAL
OF ACTION TO VOLUNTARY DISPUTE
RESOLUTION PROGRAM (VDRP)
PURSUANT TO LOCAL RULE 271**

KERN COUNTY ,

Defendant(s)

Pursuant to Local Rule 271, the parties hereby agree to submit the above-entitled action to
the Voluntary Dispute Resolution Program.

DATED: DECEMBER 11, 2019

Name:
Attorney for Plaintiff(s)

Name:
Attorney for Defendant(s)