

No. _____

IN THE SUPREME COURT OF THE UNITED STATES OF AMERICA.

AMERY GASPARD,

Petitioner,

v.

DEA TASK FORCE, a joint powers police force, CHUCK ROSENBERG, as Acting Administrator, Drug Enforcement Administration, and Member of DEA Task Force; COUNTY OF SAN BERNARDINO; a political subdivision, JOHN McMAHON, as Sheriff, and Member of DEA Task Force; COUNTY OF RIVERSIDE; STANLEY SNIFF, as Sheriff, and Member of DEA Task Force; CITY OF SAN BERNARDINO, a chartered city, and Member of DEA Task Force; CITY OF ONTARIO, a municipal corporation, and Member of DEA Task Force; B. KARMANN, as Officer, DEA Task Force; OFF. THORNBURG, as Officer, DEA Task Force; SGT SCHUELKE, as Officer, DEA Task Force; DET. BENNETT, as Officer, DEA Task Force; OFF. VEGA, as Officer, DEA Task Force; OFF. VAZQUEZ, as Officer, DEA Task Force; OFF. CAMPOS, as Officer, DEA Task Force; OFF. LUNA, as Officer, DEA Task Force; OFF. KOALOU, as Officer, DEA Task Force; OFF. MADRIGAL, as Officer, DEA Task Force; OFF. VALDIVIA, as Officer, DEA Task Force; ERNEST LEE CARTWRIGHT, as informant/"snitch",

Respondents.

Case No.: 9th Cir. 16-56589
(U. S. D. C., C. D. Cal. No. 5:15-cv-1802-BRO(KES) (C. D. Cal. 2016))

PETITION FOR WRIT OF CERTIORARI.

On Petition for Writ of Certiorari from the Judgment of the United States Court of Appeals for the Ninth Circuit.

AMERY GASPARD
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Petitioners in Pro Se.

QUESTIONS PRESENTED.

1. Should Petitioners' case against the DEA Task Force Officers be dismissed even though the Officers were served three times?
2. Should Petitioner Gaspard be allowed to amend his Complaint to allege different facts against the County of San Bernardino for violations of the Americans with Disabilities Act?
3. Should Petitioners be sanctioned even though the Action against Respondents County of Riverside and Sniff was not "frivolous, malicious, or vexatious"?

CORPORATE DISCLOSURE STATEMENT.

No Parties hold any stock or interest in any corporation, and they are listed on the caption.

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CITATIONS.

The Judgment was rendered against Petitioners in the case of *Gaspard v. City of San Bernardino* (2018), dated October 5, 2017.

STATEMENT OF JURISDICTION.

The Judgment was rendered against Petitioners in the case of *Gaspard v. City of San Bernardino* (2018), dated February 2, 2018. This Court has jurisdiction pursuant to 28 U. S. C., §1254(1).

STATUTORY PROVISIONS.

United States Constitution, Fourth, Fifth, and Fourteenth Amendments , and 42 U. S. C., §§1983, and 12132 (Apx. 33).

STATEMENT OF THE CASE.

On September 3, 2015, Petitioners filed their original Complaint (Dock. No. 1).

On September 8, 2015, Petitioners were warned that the Summons and Complaint had to be served within 120 days of filing the Complaint (Dock. No. 5).

On September 14, 2015, Petitioners filed the following Proofs of Service showing when each Appellee was served:

1. City of San Bernardino, served on a Deputy City Attorney on September 4, 2015 (Dock. No. 6).
2. B. Karman, personally served (Dock. No. 7).
3. County of San Bernardino, served on Penny, working for the Clerk of the Board of Supervisors (Dock. No. 9).
4. Sheriff John McMahon, served on Deana O.A.II, a subpoena control officer on September 4, 2015 (Dock. No. 10).

On September 25, 2015, the County of Riverside, and it's Sheriff filed a Motion (Dock. No. 13).

Also on September 25, 2015, the City of Ontario filed an Answer (Dock. No. 15).

Also on September 25, 2015, the County of San Bernardino, and its Sheriff filed an Answer (Dock. No. 16), which was amended on September 28, 2015 (Dock. No. 17).

On November 3, 2015, Petitioners filed their First Amended Complaint (Dock. No. 23).

On November 19, 2015, the County of Riverside, and the City of Ontario filed their Motions to Dismiss (Dock Nos. 28 and 29).

On November 20, 2015, the County of San Bernardino filed its Motion to Dismiss (Dock. No. 30).

On December 16, 2015, Petitioners filed the following Proofs of Service showing when each Respondent was served:

1. Sgt Schuelke, served on the Internal Affairs Sergeant on December 10, 2015¹ (Dock. No. 32).
2. Off. Thornburg, served on the Internal Affairs Sergeant on December 10, 2015 (Dock. No. 33).
3. Off. Vasquez, served on the Internal Affairs Sergeant on December 10, 2015 (Dock. No. 34).
4. Off. Vega, served on the Internal Affairs Sergeant on December 10, 2015 (Dock. No. 35).
5. Off. Campos, served on the Internal Affairs Sergeant on December 10, 2015 (Dock. No. 36).
6. Off. Madrigal, served on the Internal Affairs Sergeant on December 10, 2015 (Dock. No. 37).

¹ The Proofs of Service were dated based on the European system.

7. Det. Bennett, served on the Internal Affairs Sargent on December 10, 2015 (Dock. No. 39).
8. Off. Luna, served on the Internal Affairs Sargent on December 10, 2015 (Dock. No. 40).
9. B. Karman, served again on the Internal Affairs Sargent on December 10, 2015 (Dock. No. 41).

On January 6, 2016, Petitioners served Off. Valdivia on Ann, the Subpoena Control Officer at the Redlands Police Department on that date (Dock. No. 42).

On March 9, 2016, the District Court ruled that there was “improper service” **SOLELY** because the name of the Internal Affairs Sargent was not mentioned on the Proofs of Service (Dock. No. 45).

On March 30, 2016, Petitioners filed the following Proofs of Service showing when each Respondent was served:

1. Off. Koalou, served on Jennifer Kohrell, the Internal Affairs Sargent on December 10, 2015 (Dock. No. 48).
2. Off. Thornburg, served on Jennifer Kohrell, the Internal Affairs Sargent on December 10, 2015 (Dock. No. 49).
3. Off. Vasquez, served on Jennifer Kohrell, the Internal Affairs Sargent on December 10, 2015 (Dock. No. 50).
4. Off. Vega, served on Jennifer Kohrell, the Internal Affairs Sargent on December 10, 2015 (Dock. No. 51).
5. Sgt Schuelke, served on Jennifer Kohrell, the Internal Affairs Sargent on December 10, 2015 (Dock. No. 52).
6. Off. Campos, served on Jennifer Kohrell, the Internal Affairs Sargent on December 10, 2015 (Dock. No. 53).
7. Off. Madrigal, served on Jennifer Kohrell, the Internal Affairs Sargent on December 10, 2015 (Dock. No. 54).

8. Det. Bennett, served on Jennifer Kohrell, the Internal Affairs Sergeant on December 10, 2015 (Dock. No. 55).
9. B. Karman, served again on Jennifer Kohrell, the Internal Affairs Sergeant on December 10, 2015 (Dock. No. 56).
10. Chuck Rosenberg, served on him and Attorney General Loretta Lynch by certified mail on January 6, 2016 (Dock. No. 57).
11. Off. Luna, served on Jennifer Kohrell, the Internal Affairs Sergeant on December 10, 2015 (Dock. No. 58).
12. Off. Valdivia, served on Libby, the Subpoena Control Officer at the Redlands Police Department on January 6, 2016 (Dock. No. 59).

On March 31, 2016, Marshall Bryan Toole submitted his Declaration in response to the Order to Show Cause (Dock. No. 60).

On April 4, 2016, the District Court issued its Report and Recommendation that Respondent County of San Bernardino, and Defendants McMahon, the County of Riverside, and the City of Ontario should be dismissed from the Action below (Dock. No. 65). The Claims against the County of San Bernardino dealt with allegations of their involvement with the DEA Task Force, and not related to Petitioner Gaspard's fall at the West Valley Detention Center.

On May 4, 2016, the District Court adopted the Report and Recommendation, and dismissed that Respondent County of San Bernardino, and Defendants McMahon, the County of Riverside, and the City of Ontario without leave to amend, and gave leave to amend on the Second Amended Complaint (Dock. No. 66).

On May 9, 2016, Petitioners filed their Second Amended Complaint (Dock. No. 67).

On May 17, 2016, the District Court struck the County of San Bernardino from the Second Amended Complaint even though it did not include any DEA Task Force allegations against them. (Dock. No. 68).

On May 23, 2016, Petitioners filed the following Proofs of Service showing when each Respondent was served:

1. Off. Thornburg, served on Det. Jefferies, the Internal Affairs Seargent on December 10, 2015, and also later served Appellee Rosenberg and the Attorney General by Certified Mail (Dock. No. 70).
2. Sgt. Schuelke, served on Det. Jefferies, the Internal Affairs Seargent on December 10, 2015, and also later served Appellee Rosenberg and the Attorney General by Certified Mail (Dock. No. 71).
3. Det. Bennett, served on Det. Jefferies, the Internal Affairs Seargent on December 10, 2015, and also later served Appellee Rosenberg and the Attorney General by Certified Mail (Dock. No. 72).
4. Off. Vega, served on Det. Jefferies, the Internal Affairs Seargent on December 10, 2015, and also later served Appellee Rosenberg and the Attorney General by Certified Mail (Dock. No. 73).
5. Off. Vasquez, served on Det. Jefferies, the Internal Affairs Seargent on December 10, 2015, and also later served Appellee Rosenberg and the Attorney General by Certified Mail (Dock. No. 74).
6. Off. Campos, served on Det. Jefferies, the Internal Affairs Seargent on December 10, 2015, and also later served Appellee Rosenberg and the Attorney General by Certified Mail (Dock. No. 75).
7. Off. Luna, served on Det. Jefferies, the Internal Affairs Seargent on December 10, 2015, and also later served Appellee Rosenberg and the Attorney General by Certified Mail (Dock. No. 76).

8. Off. Koalou, served on Det. Jefferies, the Internal Affairs Sargent on December 10, 2015, and also later served Appellee Rosenberg and the Attorney General by Certified Mail (Dock. No. 77).
9. Off. Madrigal, served on Det. Jefferies, the Internal Affairs Sargent on December 10, 2015, and also later served Appellee Rosenberg and the Attorney General by Certified Mail (Dock. No. 78).
- 10.B. Karman, served again on Det. Jefferies, the Internal Affairs Sargent on December 10, 2015, and also later served Appellee Rosenberg and the Attorney General by Certified Mail (Dock. No. 79).

On May 24, 2016, the District Court declared service defective, solely by “defective” Proofs of Service, and that service should not be done by Mr. Toole (Dock. No. 81).

On June 16, 2016, Respondent County of Riverside filed a Motion for Attorney’s Fees (Dock No. 83). The County of Riverside argued that they were entitled to attorney’s fees even though their inclusion in the Action was not frivolous.

On July 13, 2016, Petitioners filed their Opposition to the Motion for Attorney’s Fees in that the Action was not frivolous, malicious, or vexatious (Dock No. 87).

On July 18, 2016, Respondent County of Riverside filed a Reply to the Motion for Attorney’s Fees (Dock No. 88).

On July 28, 2016, the District Court submitted a Minute Order requesting information from the County of Riverside (Dock No. 89).

On August 2, 2016, Respondent County of Riverside filed a Supplemental Reply to the Motion for Attorney’s Fees (Dock No. 90).

Also on August 2, 2016, the District Court heard the Motion for Attorney’s Fees (Dock No. 91).

On August 26, 2016, the District Court issued its Report and Recommendation requesting dismissal of the case without prejudice (Apx. 4-11).

On September 6, 2016, Petitioners filed their Objection to the Report and Recommendation in that Petitioners filed the Proofs of Service with the Objection, and that Motions for Default Judgment would be filed on or after September 22, 2016 (Dock No. 95).

Also on September 6, 2016, Petitioners filed the following Proofs of Service, executed by Robert A. Cotton, showing when each Respondent was served:

1. Off. Koalou, served on an African-American Subpoena Control Officer on July 20, 2016, and also later served Appellee Rosenberg and the Attorney General by Certified Mail (Dock. No. 97).
2. Off. Valdivia, served on a White female Subpoena Control Officer at the Redlands Police Department on July 20, 2016, and also later served Appellee Rosenberg and the Attorney General by Certified Mail (Dock. No. 98).
3. Off. Madrigal, served on an African-American Subpoena Control Officer on July 20, 2016, and also later served Appellee Rosenberg and the Attorney General by Certified Mail (Dock. No. 99).
4. Off. Luna, served on an African-American Subpoena Control Officer on July 20, 2016, and also later served Appellee Rosenberg and the Attorney General by Certified Mail (Dock. No. 100).
5. Off. Campos, served on an African-American Subpoena Control Officer on July 20, 2016, and also later served Appellee Rosenberg and the Attorney General by Certified Mail (Dock. No. 101).
6. Chuck Rosenberg, served on him and Attorney General Loretta Lynch by certified mail on July 22, 2016 (Dock. No. 102).

7. Sgt. Schuelke, served on an African-American Subpoena Control Officer on July 20, 2016, and also later served Appellee Rosenberg and the Attorney General by Certified Mail (Dock. No. 103).
8. Off. Thornburg, served on an African-American Subpoena Control Officer on July 20, 2016, and also later served Appellee Rosenberg and the Attorney General by Certified Mail (Dock. No. 104).
9. Det. Bennett, served on an African-American Subpoena Control Officer on July 20, 2016, and also later served Appellee Rosenberg and the Attorney General by Certified Mail (Dock. No. 105).
10. Off. Vega, served on an African-American Subpoena Control Officer on July 20, 2016, and also later served Appellee Rosenberg and the Attorney General by Certified Mail (Dock. No. 106).
11. Off. Vasquez, served on an African-American Subpoena Control Officer on July 20, 2016, and also later served Appellee Rosenberg and the Attorney General by Certified Mail (Dock. No. 107).
12. B. Karman, served again on an African-American Subpoena Control Officer on July 20, 2016, and also later served Appellee Rosenberg and the Attorney General by Certified Mail (Dock. No. 108).

On September 22, 2016, ***THE DAY PETITIONERS WANTED TO FILE A MOTION FOR DEFAULT JUDGMENT***, the District Court dismissed the Defendants without prejudice for lack of prosecution (Apx. 12-13).

On October 20, 2016, the District Court ordered Petitioners to pay \$3,250 to the County of Riverside (Apx. 14-31).

On October 24, 2016, Petitioners filed a timely Notice of Appeal from the September 22, and October 20, 2016 Orders (Dock. No. 117).

On November 4, 2016, the District Court issued the Partial Judgment under Federal Rule of Civil Procedure 54(b) (Dock. No. 120).

On April 24, 2017, Petitioners filed their Opening Brief (Ninth Cir. No. 8).

On May 25, 2017, Respondents County of Riverside and Sniff filed their Appellees' Brief (Ninth Cir. No. 18).

On July 12, 2017, Petitioners filed their First Reply Brief (Ninth Cir. No. 27).

On July 13, 2017, Respondent County of San Bernardino filed their Appellee's Brief (Ninth Cir. No. 25).

On July 27, 2017, Petitioners filed their Second Reply Brief (Ninth Cir. No. 32).

On October 5, 2017, the Ninth Circuit ruled against Petitioners (Apx. 1-3).

On October 19, 2017, Petitioners filed their Petition for Rehearing En Banc (Ninth Cir. No. 38).

On February 1, 2018, the Ninth Circuit denied Rehearing (Apx. 32).

REASONS FOR GRANTING THE WRIT.

I. PETITIONERS SERVED THE SUMMONS AND SECOND AMENDED COMPLAINT PURSUANT TO THE COURT'S LAST ORDER.

On July 20, 2016, Petitioners had Robert A. Cotton served the individual Police Officers by serving their Subpoena Control Officer on July 20, 2016.

On July 22, 2016, Petitioners also had Robert A. Cotton served Defendant Chuck Rosenberg, and the individual Police Officers by serving Rosenberg and the Attorney General by Certified Mail.

In the case of *Boudette v. Barnette*, 923 F.2d 754, 756 (9th Cir. 1991), Appellants may establish good cause to survive dismissal on the basis of lack of service by showing that "(a) the party to be served personally received actual notice of the lawsuit; (b) the defendant would suffer no prejudice; and (c) plaintiff would be severely prejudiced if his complaint were dismissed."

The Police Officers cannot be reasonably served if they were on duty, and otherwise following the law by properly apprehending the actual bad guys. Since the Officers acted as DEA Task Force Officers, who brutalized Appellants like Nazis and ransacked their house, they were served on their Subpoena Control Officers, but were also served on them by service of Certified Mail to the Attorney General and Appellee Rosenberg. Since defense would be by the United States, and not the City of San Bernardino (who was in Chapter 9 Proceedings at the time) they would not be prejudiced. Petitioners would be prejudiced if they have to refile their case again. Since service is complete, it is not the proof of service that has to be timely, but the service itself. This case should not be dismissed, since Petitioners had to serve these Defendants about three times already.

II. DISMISSING THE ADA CLAIM AGAINST THE COUNTY OF SAN BERNARDINO WAS IMPROPER SINCE THE NINTH CIRCUIT STATED THAT SUCH AN AMENDED CLAIM WAS PROPER SINCE 2012.

On May 17, 2016, the District Court dismissed the County of San Bernardino solely because they were alleged to be a Member of the DEA Task Force, which they still are. Afterwards, Petitioner Gaspard added them as a Defendant for physical injuries under the Americans with Disabilities that he incurred while at the West Valley Detention Center after his arrest. The District Court struck this Claim when it claimed that it was outside the scope of it's leave to amend, and filing of the Second Amended Complaint.

The case of *Lacey v. Maricopa Cnty.*, 2012 U.S. App. LEXIS 18320 (9th Cir. 2012), explains that:

“Before we consider his claim to immunity, we must address whether the claims against Maricopa County Attorney Andrew Thomas are properly before us, as our circuit law appears to require that we consider the claims against Thomas to be waived. **Thomas was named as a defendant in the original complaint, but the district court dismissed him from the case in its October 2008**

order after finding that he was entitled to absolute prosecutorial immunity. Although the court granted leave to amend claims against other parties, it did not grant Lacey leave to amend the claims against Thomas. Lacey filed his First Amended Complaint, he mentioned Thomas throughout the facts, but he removed all reference to Thomas as a defendant.

“We have long proclaimed that ‘[i]t is the law of this circuit that a plaintiff waives all claims alleged in a dismissed complaint which are not realleged in an amended complaint.’ *Forsyth v. Humana, Inc.*, 114 F.3d 1467, 1474 (9th Cir. 1997); see *N.Y. City Emps.’ Ret. Sys. v. Jobs*, 593 F.3d 1018, 1025 (9th Cir. 2010); *King v. Atiyeh*, 814 F.2d 565, 567 (9th Cir. 1987); *London*, 644 F.2d at 814; *Sacramento Coca-Cola Bottling Co. v. Chauffeurs, Etc., Local 150*, 440 F.2d 1096 (9th Cir. 1971); *Loux v. Rhay*, 375 F.2d 55, 57 (9th Cir. 1967); *Bullen v. De Bretteville*, 239 F.2d 824, 833 (9th Cir. 1956). (For convenience, we will refer to the rule as **the ‘Forsyth rule.’**) The *Forsyth* rule is ‘premised on the notion that the “amended complaint supersedes the original, the latter being treated thereafter as non-existent.” If a plaintiff fails to include dismissed claims in an amended complaint, the plaintiff is deemed to have waived any error in the ruling dismissing the prior complaint.’ *Forsyth*, 114 F.3d at 1474 (citation omitted) (quoting *Loux*, 375 F.2d at 57). We have indeed considered this rule to be ‘hornbook law,’ *Bullen*, 239 F.2d at 833, even as we have recognized that it is ‘somewhat harsh,’ *Marx v. Loral Corp.*, 87 F.3d 1049, 1056 (9th Cir. 1996). This rule would appear to preclude Lacey from asserting claims against Thomas in this appeal.

“...

“We therefore join our sister circuits and overrule in part the rule found in *Forsyth* and other cases ‘that a plaintiff waives all claims alleged in a dismissed complaint which are not realleged in an amended complaint.’ *Forsyth*, 114 F.3d at 1474.”

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Here, Petitioner Gaspard was trying to include an ADA Claim that had nothing to do with the DEA Task Force actions during his arrest, but in a separate incident where Appellant Gaspard fell at the West Valley Detention Center. The County should have filed a Motion to Dismiss to challenge that Amended Complaint, not have the District Court act for them.

III. PETITIONERS ARE NOT LIABLE TO RESPONDENTS COUNTY OF RIVERSIDE, AND SNIFF FOR ATTORNEY'S FEES, SINCE THE ACTION WAS NOT "FRIVOLOUS, MALICIOUS, OR VEXATIOUS".

The County of Riverside and its Sheriff's Department are Members of the "DEA Task Force". Its individual Officers in the DEA Task Force, viciously injured Appellees. The case of *Wright v. City of Santa Cruz*, 2014 U.S. Dist. LEXIS 91192, p. 2, fn. 2 (N. D. Cal. 2014), explains that:

"Those individuals are Brendan Omori, John Fernandez, Joshua Singleton, and Anthony Parker. It appears from the briefing that Fernandez was a DEA agent and that Omori, Singleton, and Parker were local law enforcement officers specially deputized by the DEA. (Reply at 2, ECF 63) A local law enforcement officer on detail to a federal agency is deemed to be an employee of the agency for purposes of the FTCA. 5 U.S.C. § 3374(c)(2). Plaintiffs do not dispute the moving parties' characterization of all four officers as 'Individual Federal Agents.'"

Here, the entities previously alleged in the First Amended Complaint were part of the Joint Federal-State Task Force, and the Officers were clearly Federal Agents, despite the individual Officers being initially employed by the City of San Bernardino, and were exercising Federal law *outside* of San Bernardino City Limits.

Appellants did not sue anybody in confusion. Since it was a "Task Force", and each Member of the Task Force was a participant, they should have supervised the conduct of all of their Officers. Since the individual Officers lacked probable cause to harm Appellants and ransack their home, it was alleged that the Members of the DEA Task Force were responsible for the damages for the failure to train the

individual Officers. The inclusion of Appellees County of Riverside and Sniff is not “frivolous, malicious, or vexatious”. The case of *Hughes v. Rowe*, 449 U.S. 5, 14-15 (1980), explains that:

“In *Christiansburg Garment Co. v. EEOC*, 434 U. S. 412 (1978), we held that the defendant in an action brought under Title VII of the Civil Rights Act of 1964 may recover attorney's fees from the plaintiff only if the District Court finds ‘that the plaintiff's action was frivolous, unreasonable, or without foundation, even though not brought in subjective bad faith.’ *Id.* at 434 U. S. 421. Although arguably a different standard might be applied in a civil rights action under 42 U.S.C. § 1983, we can perceive no reason for applying a less stringent standard. The plaintiff's action must be meritless in the sense that it is groundless or without foundation. The fact that a plaintiff may ultimately lose his case is not, in itself, a sufficient justification for the assessment of fees. As we stated in *Christiansburg*:

“To take the further step of assessing attorney's fees against plaintiffs simply because they do not finally prevail would substantially add to the risks inhering in most litigation and would undercut the efforts of Congress to promote the vigorous enforcement of the provisions of Title VII. Hence, a plaintiff should not be assessed his opponent's attorney's fees unless a court finds that his claim was frivolous, unreasonable, or groundless, or that the plaintiff continued to litigate after it clearly became so.”

“434 U.S. at 434 U. S. 422. No such finding supported the fee award in this case.”

The case of *Allen v. City of Los Angeles*, 66 F.3d 1052, fn. 2 (9th Cir. 1995), also states that:

“We deny defendant Timothy Singer's request for an award of attorney fees. A prevailing defendant in a civil rights action is not entitled to attorney fees under 42 U.S.C. Sec. 1988 merely because he prevails on the merits of the suit. *Vernon v. City of Los Angeles*, 27 F.3d 1385, 1402 (9th Cir.1994), cert. denied, --- U.S. ----, 115 S.Ct. 510, 130 L.Ed.2d 417 (1994). Allen's action was not ‘unreasonable, frivolous, meritless, or vexatious.’ *Id.* (quoting *Roberts v. Spalding*, 783 F.2d 867, 874 (9th Cir), cert. denied, 479 U.S. 930, 107 S.Ct. 399, 93 L.Ed.2d 352 (1986))”

The case of *United States v. Ringrose*, 788 F.2d 638 (9th Cir. 1986), finally states that:

“All parties seek attorney's fees on appeal under 42 U.S.C. Sec. 1988. Although attorney's fees may be awarded at the appellate as well as the trial level, *Sotomura v. County of Hawaii*, 679 F.2d 152 (9th Cir.1982), a prevailing defendant is entitled to an award of fees only where the plaintiff's action was ‘frivolous, unreasonable, or without foundation.’ *Hughes v. Rowe*, 449 U.S. 5, 14, 101 S.Ct. 173, 178, 66 L.Ed.2d 163 (1980) (quoting *Christiansburg Garment Co. v. EEOC*, 434 U.S. 412, 421, 98 S.Ct. 694, 700, 54 L.Ed.2d 648 (1978)); *Jensen v. Stangel*, 762 F.2d 815, 817 (9th Cir.1985). The Chumash raise issues not previously addressed by the courts, and their case cannot be characterized as frivolous or unreasonable. We therefore deny all requests for attorney's fees.”

Here, the individual Officers yelled “Task Force”, not “Police!” If the Task Force Officers did not act like Nazi savages, this suit would not be filed at all. Petitioners allege that if the Member Agencies made sure that each of their officers comply with the Constitution, this world would be better off. Although Petitioners were not killed, rogue Nazi tactics that occurred in Baton Rouge, Louisiana, and St. Paul, Minnesota would not have happened if police officers were properly trained.

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CONCLUSION.

Petitioners requests that this Court reverse the Orders of Dismissal and the granting of attorney's fees, and award them their fees and costs.

Dated this 30th day of April, 2018

Bv: _____
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Petitioner in Pro Se.

Dated this 30th day of April, 2018

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