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10 (also erroneously sued herein as Sacramento
11 County Sheriff's Department); Lou Blanas,
12 John McGinness, Timothy Sheehan, and
13 Fred Mason

14 **UNITED STATES DISTRICT COURT EASTERN DISTRICT**
15 **OF CALIFORNIA SACRAMENTO DIVISION**

16 JAMES ROTHERY, Esq.; ANDREA
17 HOFFMAN,

18 Plaintiffs,

19 v.

20 Former Sheriff LOU BLANAS; SHERIFF
21 JOHN MCGINNESS; Detective TIM
22 SHEEHAN; Detective FRED MASON;
23 SACRAMENTO COUNTY SHERIFF'S
24 DEPARTMENT, an independent branch of
25 government of the COUNTY OF
26 SACRAMENTO; COUNTY OF
27 SACRAMENTO; STATE OF CALIFORNIA
28 ATTORNEY GENERAL JERRY BROWN;
DOES 1 through 25, unknown co-conspirators;
ATTORNEY GENERAL MICHAEL B.
MUKASEY,

Defendants.

CASE NO. 2:08-CV-02064-JAM-KJM

Date: May 6, 2009

Time: 9:00 a.m.

Ctrm: 6

Judge: Honorable John A. Mendez

COUNTY DEFENDANTS' *REPLY*
REGARDING MOTION FOR MORE
DEFINITE STATEMENT [FRCP
12(e)]; MOTION TO STRIKE [FRCP
12(f)]; AND MOTION TO DISMISS
FOR FAILURE TO STATE A CLAIM
[FRCP 12(b)(6)]

SACRAMENTO COUNTY DEFENDANTS submit this Reply in connection with their
above-described motions set for hearing on May 6, 2009.

Plaintiffs have not filed or served any opposition to County Defendants' motions, and
such opposition, if any, or a statement of non-opposition, was due to be filed and served on or

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1 before April 20, 2009.

2 It has been shown in the moving papers that the pleading on its face fails to create
3 plausible claims to which Plaintiffs would be entitled to recovery, and amendment could not
4 create any entitlement to relief by these Plaintiffs. See Johnson v. Riverside Healthcare System,
5 LP, 534 F. 3d 1116, 1122 (9th Cir. 2008)(A Rule 12(b)(6) dismissal may be based on either a
6 "lack of a cognizable legal theory" or "the absence of sufficient facts alleged under a cognizable
7 legal theory." (citation omitted) In other words, [plaintiff's] complaint must provide a "short and
8 plain statement of the claim showing that [he] is entitled to relief."); Tamayo v. Blagojevich, 526
9 F.3d 1074, 1083-85 (7th Cir. 2008)([Plaintiff must] show that it is plausible, rather than merely
10 speculative, that he is entitled to relief." (citations omitted)).

11 Therefore, based upon the moving papers and supporting documentation filed by County
12 Defendants, it is respectfully requested that the court dismiss Plaintiffs' complaint *without leave*
13 *to amend* as no cognizable claims can be made by these Plaintiffs against the County Defendants.

14
15 DATED: April 29, 2009

LONGYEAR, O'DEA AND LAVRA, LLP

16 /s/ Jeri L. Pappone
17 By: _____
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