

**CLAIM FOR:**

- Personal Injury
- Property Damage
- Other (specify)  
Violation of Civil Rights  
(Excessive Force)

**CITY OF EL MONTE**  
**CLAIM FOR DAMAGES**

**INSTRUCTIONS**

1. Read entire claim form before filing.
2. Claims must be filed with City Clerk (Gov. Code Sec. 915(a)).
3. The reverse side of this form and each attached sheet must be signed.
4. Complete diagram on the reverse side of this form to show place of accident.
5. A claim relating to a cause of action for death or for injury to person or to personal property or growing crops shall be presented as provided in Gov. Code Sec. 915 et. seq. not later than six (6) months after the accrual of the cause of action. (Gov. Code Sec. 911.2)
6. A claim relating to any other cause of action (not specified in number 5, above) must be filed not later than one (1) year after the accrual of the cause of action. (Gov. Code Sec. 911.2)

Name of Claimant Richard Rodriguez	
Home Address of Claimant Confidential	City/State/Zip
Business Address of Claimant Confidential	City/State/Zip

**CLAIM NO.** \_\_\_\_\_

**THIS SPACE FOR CITY USE ONLY**

Age of Claimant (if natural person)

24

Home Telephone Number

Business Telephone Number

Give address & telephone number of attorney or other person whom you desire notices or communications to be sent regarding this claim:  
 Nick Pacheco, Esq., Law Offices of Steven J. Siebig, 301 E. Glenoaks Blvd., Suite 1 Glendale, CA 91207-2114  
 818-502-2020 office, 818-502-6969 facsimile    nick@nickpacheco.com

How did DAMAGE or INJURY occur? Give full particulars:

See attached.

When did DAMAGE or INJURY occur? Give full particulars, date, time of day: May 13, 2009 at approximately

Were Police notified?  Yes  No If yes, give Police Dept. report number (if known):

Where did DAMAGE or INJURY occur? Describe fully, and locate on diagram on reverse side of this sheet, where appropriate, give street name and address and measurements from landmarks:

See attached.

What particular ACT or OMISSION do you claim caused the injury or damage? Give names of City employees causing the injury or damage, and indicate which City department is involved, if known:

- Public Service
- Public Works
- Parks & Recreation
- Other (specify)

See attached.

What DAMAGE or INJURIES do you claim resulted? Give full extent of injuries or damages claimed:

It is too early to determine the full extent of brain injury, however, Mr. Rodriguez, currently suffers from headaches, blurred vision, back problems, inability to sleep, and dizziness. Mr. Rodriguez presents symptoms of Post Traumatic Stress Disorder, such as, flashbacks, frightening thoughts, depression, worrisome, easily startled, and on edge.

What AMOUNT do you claim on account of each item of injury or damage as of date of presentation of this claim, giving basis of computation:

\$4,000,000.00 (\$4 Million Dollars)

Do you claim damages for future expenses or injuries not listed above? If so, estimated amount and basis of computation: If no specific amount stated, indicate if within Municipal or Superior Court jurisdiction.

\$1,000,000.00 (\$1 Million Dollars)

COMPLETE AND SIGN REVERSE SIDE

Insurance payments received, if any, and names of Insurance Company:

None

Expenditures made on account of accident or injury: (Date — Item)

(Amount)

None at this time.

Name and address of Witnesses, Doctors and Hospitals:

All viewers of Channel 4, 5, and 11 who saw what happened live.

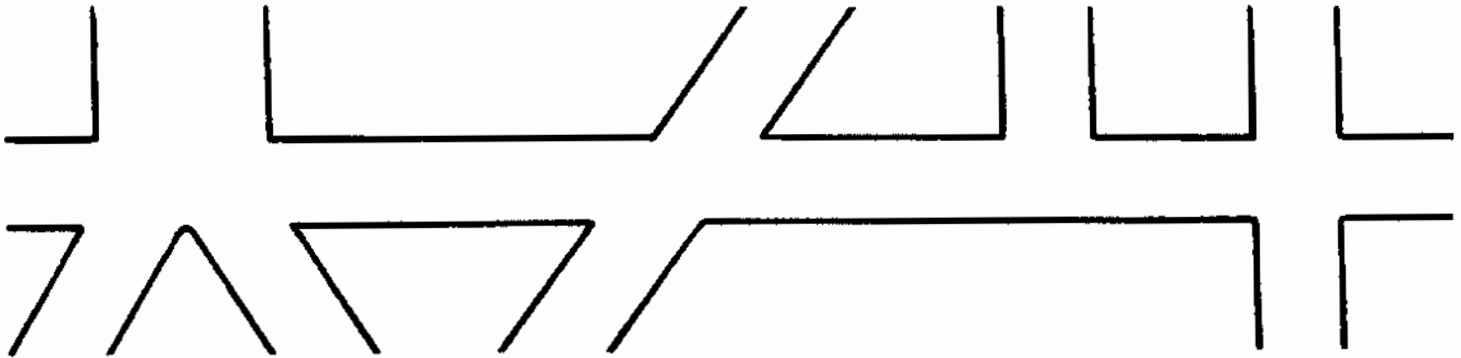
**READ CAREFULLY**

For all accident claims place on following diagram names of streets, including North, East, South, and West; indicate place of accident by "X" and by showing house numbers or distances to street corners.

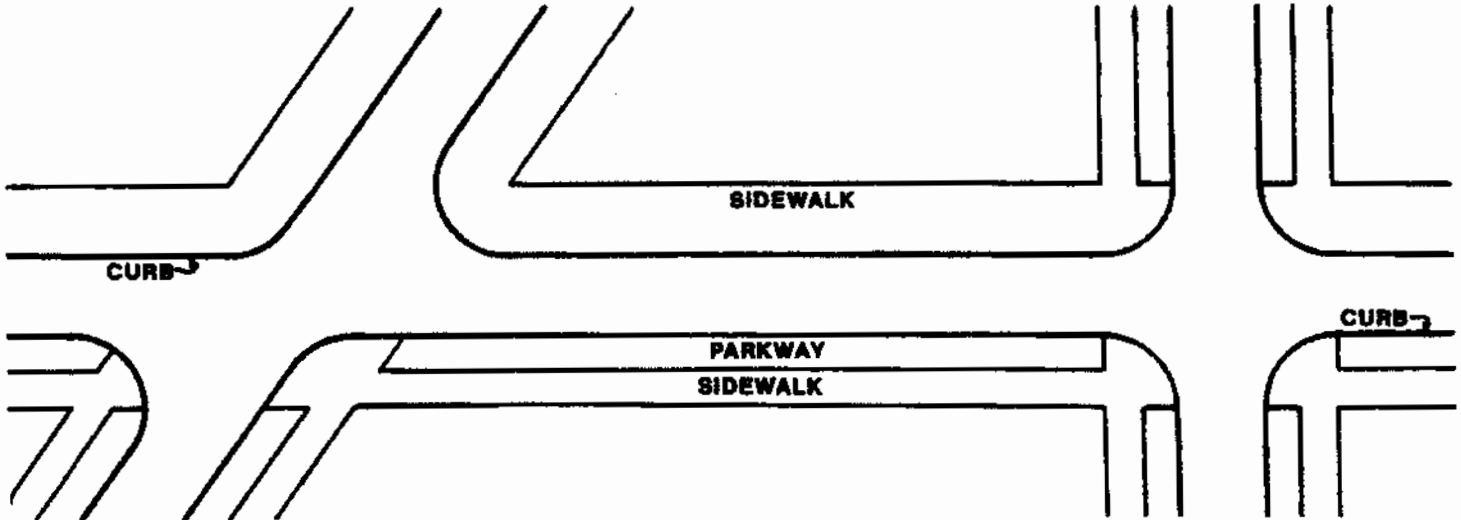
If City vehicle was involved, designate by letter "A" location of City vehicle when you first saw it, and by "B" location of yourself or your vehicle when you first saw City vehicle; location of City vehicle at time of accident by "A-1" and location of yourself or your vehicle at the time of the accident by "B-1" and the point of impact by "X."

NOTE: If diagrams below do not fit the situation, attach hereto a proper diagram signed by claimant.

**FOR AUTOMOBILE ACCIDENTS**



**FOR OTHER ACCIDENTS**



I declare, under penalty of perjury, that the foregoing, including any attachments, is true and correct.

Signature of Claimant or Person filing on his behalf giving relationship to Claimant:

Typed Name:

Nick Pacheco, Esq.  
Attorney at Law  
(323) 230-8679

Date:

7/23/09

NOTE: ALL CLAIMANTS MAY BE REQUIRED TO BE EXAMINED AS TO THEIR CLAIM UNDER OATH. PRESENTATION OF A FALSE CLAIM IS A FELONY. (CAL. PEN. CODE SEC. 72)

**Attachement to  
City of El Monte Claim for Damages**

**OFFICER FIERRO (#492):**

On May 13, 2009 at approximately 1:35 pm Officer George Fierro states while in a marked police vehicle driving e/b Elliot Ave he saw a Toyota Corolla travelling w/b on Elliot Ave. In the vehicle are three alleged gang members and when they pass he falsely alleges that they “appeared to have a nervous expression on their faces.”

At this point Fierro decides to make a u-turn and hunt these individuals down for police harassment since it is not illegal to have a nervous expression on ones face. In order to facilitate his effort to harass these individuals he falsely alleges that the driver’s view was obstructed (a violation of Vehicle Code Section 26708 (a)(1)) by a necklace hanging from the rear view mirror that was approximately 10 inches in length. (Note: it turned out that the “necklace” was actually a rosary.) After seeing the rosary he initiates a traffic enforcement stop on the vehicle being driven by Richard Rodriguez.

Mr. Rodriguez does not stop, however, after a chase he does decide to surrender to Officer Fierro in the back yard of a condo complex.



Mr. Rodriguez looks over to Officer Fierro and indicates to the officer that he is submitting to his authority.



Mr. Rodriguez lies down on the ground facing down in a submissive position with his palms down and feet flared out.





Instead of holding his gun at Mr. Rodriguez and waiting for back up to place handcuffs on Mr. Rodriguez, Officer Fierro kicks Mr. Rodriguez in the head without breaking his stride. The video from Channel 4 (KNBC) news shows that Mr. Rodriguez was submissive and had surrendered. Officer Fierro lies in his report when he writes that “I saw [Mr. Rodriguez] slightly flinch as if to raise his head so fearing for my safety and the fact that I was alone, and believing he might try to get up and fight me...I kicked at [Mr. Rodriguez’s] face to create a diversionary blow and get him to submit to arrest.” This is clearly a lie since Mr. Rodriguez had already submitted to being arrested when he decided to lie down on the grass in a submissive position.

He goes on to further lie about Mr. Rodriguez when he writes in his report that Mr. Rodriguez “appeared to flinch again by slightly raising his upper torso as if to possibly get up to fight, so I sprayed him on the face with a burst of OC pepper spray causing him to fend to his face.”

At this point in his report he fails to mention that he must holster his gun before he reaches for his pepper spray and bends over toward Mr. Rodriguez to pepper spray him directly in the face from about six inches away.



Officer Fierro holstering his gun before he reaches to get his pepper spray. Notice how Mr. Rodriguez is not doing anything but lying on the ground.



Officer Fierro, after holstering his gun, voluntarily puts himself in danger by spraying pepper spray directly into Mr. Rodriguez's face. The use of pepper spray under these circumstances is just as unwarranted and an example of excessive force being applied against Mr. Rodriguez as the unprovoked kick in the head suffered by Mr. Rodriguez.



Mr. Rodriguez reacts to the application of pepper spray to his face by moving his right hand toward his head and trying to clear the spray from his eyes.

It appears the Officer Fierro did not want to take advantage of Mr. Rodriguez being prone out with his hands out from his body and instead decided to escalate the situation by kicking Mr. Rodriguez in the face and pepper spraying him in the face. Officer Fierro appears to be purposely agitating Mr. Rodriguez to justify his excessive force and to establish an environment where his fellow officers would also feel comfortable beating Mr. Rodriguez.

Officer Fierro's blow to Mr. Rodriguez's face/head and his pepper spraying of Mr. Rodriguez are contributing causes to Mr. Rodriguez's injuries as well as the acts of Officer Singleterry and Officer Danison.

**OFFICER SINGLETERRY (#620):**

Officer Singleterry falses writes in his report that, “As I ran to the rear of the yard, I saw Officer Fierro attempting to gain control of Rodriguez’s left arm while giving him verbal commands to put his arms out to his side. Rodriguez was lying chest down on the grass and Officer Fierro appeared to be struggling with Rodriguez while holding his left arm.”



The video and photos contradict Officer Singleterry’s statements since it clearly visible that Officer Fierro is NOT “struggling with Rodriguez while holding his left arm.” Mr. Rodriguez’s both hands are by his eyes after being pepper sprayed by Officer Fierro.

At this point neither officer has attempted to handcuff Mr. Rodriguez. The pictures and of course the video show that both of Mr. Rodriguez’s hands are visible. The officers could have handcuffed him without the necessity of assaulting him. Instead, Officer Singleterry proceeds to strike Mr. Rodriguez with his flashlight approximately three times on the right side of his body. At no point in the video does Mr. Rodriguez fight back or resist being arrested.

Only after Officer Singleterry starts beating on Mr. Rodriguez does he move his right hand from his face area to his body area. Officer Singleterry's blows to Mr. Rodriguez also contributed to Mr. Rodriguez's injuries suffered on that day.

**OFFICER DANISON (#602) & K-9:**

Officer Danison falsely writes in his report that he saw "the suspects legs moving. Fearing that the suspect may try to kick one of the officers."



Officer Danison approaches the scene and Mr. Rodriguez is in NO position to "kick one of the officers." Mr. Rodriguez is still face down on the grass with two officers apprehending him with excessive force and more specifically Officer Singleterry has a knee in his back.

Officer Danison goes on to report that "[he] placed [his] hand on [Rodriguez's] right foot and pushed it toward the ground." It is not clear why he did this considering Mr. Rodriguez was being subdued and was not in a position to kick anybody.

What Officer Danison does seem to be doing is releasing the dog on Mr. Rodriguez for no good reason or legal necessity since Mr. Rodriguez is in a submissive position.





The fact that the dog missed when he went to bite Mr. Rodriguez does not change the fact that Officer Danison improperly used excessive force on Mr. Rodriguez by allowing the dog to take a snap at Mr. Rodriguez. A review of the video shows that the dog was out of control and Officer Danison had to use quite a bit of force to get him to stop.

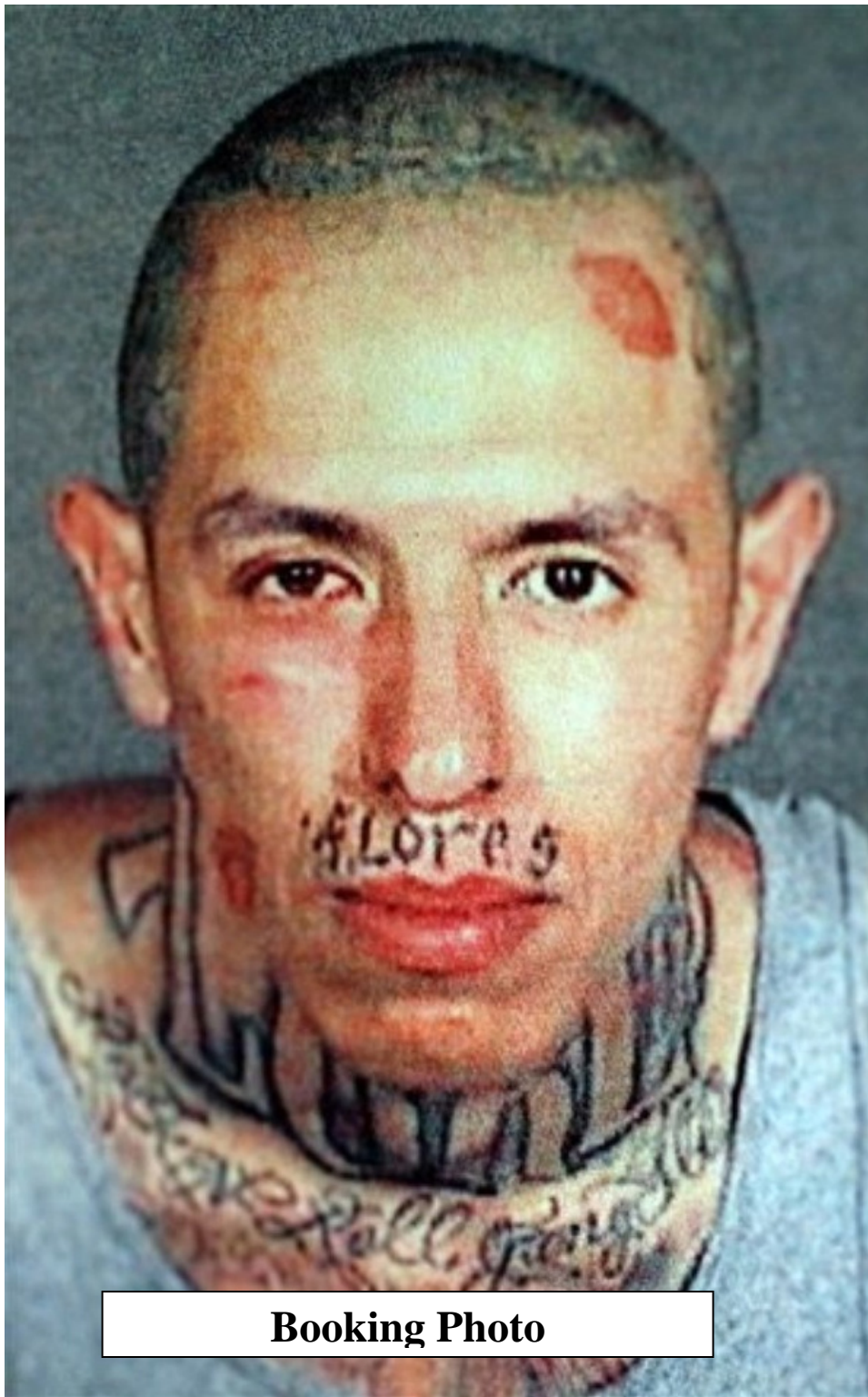
#### **THE EL MONTE POLICE DEPARTMENT:**

The entire Police Department is liable to Mr. Rodriguez for creating an atmosphere in the department where officers feel free to abuse the civil rights of suspects and use deadly force on them without any concern for accountability. The officer's "high fiving" each other after beating on Mr. Rodriguez shows that, among the officers, unwarranted use of excessive force is not only tolerated but is cause for celebration.



Officers Fierro and Danison, under the watchful eyes of Channel 4 and Channel 11 news copters, celebrate their assault on Mr. Rodriguez. Mr. Rodriguez had not resisted arrest in any manner and did not deserve to be beaten by these officers.

The conduct of all these officers and the lax attitude in the police department have contributed to the injuries suffered by Mr. Rodriguez.



**Booking Photo**



**Trial Look (Photoshop)**