

1 Consistent with the Report and Recommendation, IT IS ORDERED
2 that:

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4 (1) Defendants' Motion to Dismiss on the grounds that the
5 Second Amended Complaint fails to state a claim under
6 42 U.S.C. § 1983 and state tort law is GRANTED;

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8 (2) Defendants' Motion to Dismiss on the grounds of
9 qualified immunity is DENIED without prejudice;

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11 (3) Defendants' Motion to Strike Plaintiff's requests for
12 punitive damages against Defendants in their official
13 capacity is GRANTED;

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15 (4) Defendants' Motion to Strike Plaintiff's requests for
16 punitive damages against Defendants in their individual
17 capacity is DENIED without prejudice;

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19 (5) Plaintiff shall file a Third Amended Complaint
20 correcting the deficiencies identified in the
21 Magistrate Judge's Report and Recommendation within
22 fourteen (14) days of the date of this Order if he
23 wishes to pursue this litigation.

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The Clerk of the Court shall serve copies of this Order on Plaintiff and counsel for Defendants.

IT IS SO ORDERED.

DATED: November 05, 2013

JOSEPHINE L. STATON

JOSEPHINE L. STATON
UNITED STATES DISTRICT JUDGE