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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

MARQUISE CALIZ,)	NO. CV 15-5161-JLS (KS)
)	
Plaintiff,)	
)	ORDER ACCEPTING INTERIM FINDINGS
v.)	AND RECOMMENDATIONS OF UNITED
)	STATES MAGISTRATE JUDGE
CITY OF LOS ANGELES, et al,)	
)	
Defendants.)	
_____)	

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Complaint (the “Complaint”), all of the records herein, Plaintiff’s Motion for Leave to File a First Amended Complaint (the “Motion”) and the parties’ related briefing, the November 3, 2017 Interim Report and Recommendation of United States Magistrate Judge (“Report”), Plaintiff’s Objections to the Report, and Defendant’s Statement of Non-Objection. Pursuant to 28 U.S.C. § 636(b)(1)(C) and Fed. R. Civ. P. 72(b), the Court has conducted a *de novo* review of those portions of the Report to which objections have been stated. Having completed its review, the Court accepts the findings and recommendations set forth in the Report.

1 Accordingly, IT IS ORDERED that the Motion is GRANTED in part and DENIED in
2 part as follows:

- 3 (1) The Motion is GRANTED with respect to Plaintiff's proposed addition of an
4 Eighth Amendment excessive force claim against Victor Benavidez, in his
5 individual capacity, and an Eighth Amendment failure to intervene claim against
6 Viet Tran, in his individual capacity;
- 7 (2) The Motion is DENIED with respect to all of Plaintiff's other proposed
8 amendments;
- 9 (3) The Defendants sued in connection with the August 16, 2013 assault, except for
10 Defendant Simms and the two former Doe Defendants now named as Defendant
11 Benavidez and Defendant Tran, are DISMISSED without prejudice and with leave
12 to amend; and
- 13 (4) The Defendants sued in connection with events occurring in 2014, including the
14 Doe Defendant now identified as Sergeant Argueta, are DISMISSED without
15 prejudice to Plaintiff initiating a separate action against one or more of these
16 individuals.

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18 IT IS FURTHER ORDERED that the stay on substantive motions is LIFTED and
19 Plaintiff and Defendant Simms shall file their substantive motions, if any, within 30 days of
20 the date of this Order.

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22 Finally, IT IS ORDERED that Plaintiff shall file, within 30 days of the date of this
23 Order, EITHER:

- 24 (1) A signed document entitled Notice Of Intent Not To File Second Amended
25 Complaint expressing Plaintiff's wish to proceed only on the remaining claims in
26 this action – namely, the Eighth Amendment claims against Defendants Simms,
27 Benavidez, and Tran in their individual capacity; OR

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1 (2) A Motion for Leave to Amend and a proposed Second Amended Complaint that (i)
2 names as defendants all of the individuals whom Plaintiff wishes to hold liable for
3 the August 16, 2013 assault, including Defendants Simms, Benavidez, and Tran
4 and (ii) details each named defendant's involvement in Plaintiff's allegations but
5 does not attempt to add new claims against Defendant Simms or claims concerning
6 events occurring in 2014.

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DATED: March 6, 2018



JOSEPHINE L. STATON
UNITED STATES DISTRICT JUDGE