UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

DELANO F. SEUNG,

Plaintiff,
vs.

B. BEARDMORO,

Defendant.

Plaintiff,
ORDER ACCEPTING FINDINGS,
CONCLUSIONS AND
RECOMMENDATIONS OF UNITED
STATES MAGISTRATE JUDGE

Pursuant to 28 U.S.C. § 636, the Court has reviewed the First Amended Complaint, all the records and files herein, and the Report and Recommendation of the United States Magistrate Judge. No objections to the Report and Recommendation have been filed herein. The Court concurs with and accepts the findings, conclusions and recommendations of the Magistrate Judge.

IT THEREFORE IS ORDERED that plaintiff's first claim under § 1983 based on violations of the First Amendment and conspiracy, his second claim under § 1983 based on unlawful customs and practice, his fourth claim under § 1985(3), and his fifth claim under § 1986 are dismissed with leave to amend; that plaintiff's first claim under § 1983 based on a violation of the Fourteenth Amendment and his third claim

under § 1985(2) are dismissed without leave to amend; that defendants Beardmore and Gill are dismissed from this action without prejudice; that defendant Tavera is dismissed, without prejudice, from all claims except plaintiff's second claim under § 1983 based on unlawful customs and practice; that plaintiff's request for punitive damages as to defendants Beardmore, Gill, and Tavera, except insofar as punitive damages are requested against Tavera in relation to the Monell claim are stricken, without prejudice; and that plaintiff, if he still desires to pursue this action, is ordered to file a Second Amended Complaint within thirty (30) days of the date of this Order remedying the deficiencies discussed in the Report and Recommendation. If plaintiff chooses to file a Second Amended Complaint, it should bear the docket number assigned in this case; be labeled "Second Amended Complaint"; and be complete in and of itself without reference to the Complaint, the FAC, or any other pleading, attachment, or document. In the event plaintiff does not amend his claims dismissed with leave to amend and file a Second Amended Complaint, within the allotted time, the Court will order defendants to file an Answer to the remaining claim, i.e., plaintiff's claim for excessive force and unlawful seizure alleged in his first claim.

Dated: January 31, 2017

JOHN A. KRONSTADT UNITED STATES DISTRICT JUDGE