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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION

JOSEPH McDANIELS, Plaintiff, v. UNITED STATES OF AMERICA, et al., Defendants.	}	Case No. 5:14-cv-02594-VBF (JDE) ORDER ACCEPTING FINDINGS AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE
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Pursuant to 28 U.S.C. § 636, the Court has reviewed the records on file, including the operative Second Amend Complaint (Dkt. 19, “SAC”) filed by Plaintiff Joseph McDaniels (“Plaintiff”), the Motion to Dismiss the SAC (Dkt. 54, “Motion”) filed by defendants the United States of America (“United States”) and Pablo Prieto (“Prieto”) (collectively, “Defendants”), Plaintiff’s Opposition to the Motion (Dkt. 58), Defendants’ Reply (Dkt. 62), and the Report and Recommendation of the assigned United States Magistrate Judge (Dkt. 75). No party filed any objections to the Report and Recommendation.

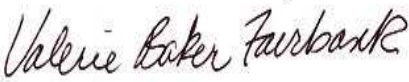
Therefore, IT IS HEREBY ORDERED that:

1. The Report and Recommendation is approved and accepted;
2. The Motion is GRANTED as to Plaintiff’s Federal Tort Claims

1 Act ("FTCA") claim against the United States based upon the
2 alleged conduct of non-defendant Officer McCormick and as to
3 the alleged lack of staffing and those claims are dismissed without
4 leave to amend;

- 5 3. The Motion is GRANTED as to the United States' request to
6 strike the SAC's punitive damage request against it and that
7 request is stricken as to the United States;
- 8 4. The Motion is DENIED as to the Bivens claim against Prieto and
9 the FTCA claim against the United States based upon the alleged
10 conduct of non-defendants Agular and Patterson.
- 11 5. Subject to the foregoing, Defendants shall answer the SAC within
12 21 days from the date of this Order.

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14 Dated: March 5, 2019



16 VALERIE BAKER FAIRBANK
17 United States District Judge
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