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LONG and OFFICER JEREMY DEMOSS

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8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

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11 ROBERT MORRIS and MICHELLE ) CASE NO. 1:08-CV-01422-OWW-GSA  
MORRIS, pro se )  
12 )  
Plaintiffs, )  
13 ) **ORDER REGARDING DEFENDANTS’**  
vs. ) **MOTION TO DISMISS PLAINTIFFS’**  
14 ) **FIFTH AMENDMENT COMPLAINT**  
FRESNO POLICE DEPARTMENT, )  
15 )  
OFFICER CHRISTOPHER LONG, )  
16 )  
OFFICER JEREMY DEMOSS, )  
17 )  
Defendants. )

18 Defendants’ motion to dismiss the fifth amended complaint of plaintiffs ROBERT MORRIS  
19 and MICHELLE MORRIS (“Plaintiffs”) came on for hearing on May 24, 2010. Defendants CITY  
20 OF FRESNO POLICE DEPARTMENT, OFFICER CHRISTOPHER LONG and OFFICER  
21 JEREMY DEMOSS (“Defendants”) were represented by James J. Arendt. Plaintiffs, who are  
22 proceeding *in pro per*, appeared on their own behalf.

23 After reviewing the papers submitted by the parties and hearing oral argument on the issues  
24 presented the court orders that the motion is granted in part and denied in part.

- 25 1. With respect to the excessive force claims alleged by Robert and Michelle Morris,  
26 the motion to dismiss is DENIED;  
27 2. With respect to the unreasonable seizure claim of Robert Morris, based on the blood  
28 draw, the motion to dismiss is GRANTED, without prejudice;

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(Proposed) Order on Defendants’ Motion to  
Dismiss Plaintiffs’ Fifth Amended Complaint

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3. With respect to the municipal liability claim against the City of Fresno, the motion to dismiss is GRANTED, without prejudice.

Any amended complaint is due within thirty (30) days of the electronic filing of the Court's Memorandum Decision. Defendants' responsive pleading is due within twenty (20) days of notice of the electronic filing of any such amended complaint.

IT IS SO ORDERED.

**Dated: June 18, 2010**

**/s/ Oliver W. Wanger**  
**UNITED STATES DISTRICT JUDGE**