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9 **UNITED STATES DISTRICT COURT**
EASTERN DISTRICT OF CALIFORNIA

10 C.B., a minor,

Case No. 1:09-CV-00285-OWW-SMS

11 Plaintiff,

ORDER DENYING THE RULE 12(b)(6)
MOTION BROUGHT BY DEFENDANTS
CITY OF SONORA, CHIEF OF POLICE
MACE MCINTOSH, AND OFFICER HAL
PROCK

12 v.

13 SONORA SCHOOL DISTRICT;
14 KAREN SINCLAIR; CITY OF
SONORA; CHIEF OF POLICE MACE
15 MCINTOSH; OFFICER HAL PROCK;
DOES 1-10

DATE: March 8, 2010
TIME: 10:00 a.m.
DEPT: 3

16 Defendants.

JUDGE: Hon. Oliver W. Wanger

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20 Defendants' Motion to Dismiss Plaintiff's First Amended Complaint came on regularly for
21 hearing by this Court on March 8, 2010, the Honorable Oliver W. Wanger presiding.

22 The Court, having read the supporting and opposing papers, and having heard the arguments at
23 the hearing, and good cause appearing, orders as follows:

24 IT IS HEREBY ORDERED that:

25 1. Defendant's Motion to Dismiss and Motion for a More Definite Statement is hereby denied
26 in its entirety;

27 2. Plaintiff's First Amended Complaint adequately pleads causes of action for False
28 Imprisonment, Battery, and Intentional Infliction of Emotional Distress against the moving Defendants.

1 Fed.R.Civ.Pro. 8(a)(2), (e).

2 3. Plaintiff's First Amended Complaint adequately pleads causes of action for violation of 42
3 U.S.C. § 1983 against Chief of Police Mace McIntosh and Officer Hal Prock in their individual
4 capacities. Fed.R.Civ.Pro. 8(a)(2), (e).

5 4. Defendants assertion of qualified immunity in this Rule 12(b)(6) motion is denied without
6 prejudice to Defendants' raising the issue of qualified immunity in a Motion for Summary Judgment
7 after discovery in this matter.

8 5. Defendants are ordered to file an Answer to the First Amended Complaint within 20 days of
9 this order.

10 6. The parties are ordered to telephonically appear before the Court on May 7, 2010 at 8:15
11 before Judge Oliver W. Wanger in courtroom 3 for a Case Management Conference to set discovery and
12 pre-trial deadlines and a trial date. The parties shall e-file a Joint Status Report seven days prior to the
13 Case Management Conference.

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17 **IT IS SO ORDERED.**

18 **Dated: March 11, 2010**

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE

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