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

11	JAMES LORAN QUINN,)	CASE NO.: 1:10-CV-01617-OWW-SMS
12	Plaintiff,)	
13	vs.)	ORDER ON DEFENDANTS' MOTION TO
14	FRESNO COUNTY SHERIFF, FRESNO)	DISMISS PLAINTIFF'S CORRECTED
15	COUNTY PROBATION DEPARTMENT,)	SECOND AMENDED COMPLAINT
16	OFFICER DAVID ALANIS, OFFICER)	Date: February 7, 2011
17	LEONARD RICHERT, FRESNO COUNTY)	Time: 10:00 a.m.
18	DISTRICT ATTORNEY, FRESNO)	Ctrm: 3
19	COUNTY JAIL, ET AL. and DOES 1 to 100)	The Honorable Oliver W. Wanger
20	INCLUSIVE,)	
21	Defendants.)	

22 On February 7, 2011, the matter of Defendants' motions to dismiss Plaintiff's corrected second
23 amended complaint came before the Court for hearing. Attorney Roy C. Santos appeared on behalf of
24 the moving parties. Attorney David M. Hollingsworth appeared on behalf of the plaintiff. After
25 considering the pleadings and documents filed with the Court, and receiving oral argument from counsel,
26 the Court hereby rules as follows:

- 27 1. Plaintiff's section 1983 claims arising out of Plaintiff's arrest are DISMISSED, without
- 28 2. All state law claims based on Plaintiff's arrest are DISMISSED, without prejudice;
3. Plaintiff's Eighth and Ninth causes of action asserting claims under section 1983 against

Order On Defendants' Motion to Dismiss Plaintiff's CSAC

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- Defendant Linda Penner are DISMISSED without prejudice;
4. Plaintiff's First and Tenth causes of action asserting claims under California state law against Defendant Linda Penner are DISMISSED without prejudice;
 5. Plaintiff's Second cause of action asserting a claim of respondeat superior liability under California state law against Defendant County of Fresno, arising out of the alleged actions and/or inactions of Defendant Linda Penner, is DISMISSED without prejudice;
 6. Defendants' motion to dismiss Plaintiff's section 1983 claim for deliberate indifference to his medical needs is DENIED;
 7. Defendants' motion to dismiss Plaintiff's claim under California Government Code section 845.6 is DENIED;
 8. Plaintiff's medical malpractice claim is DISMISSED, without prejudice;
 9. Plaintiff shall file an amended complaint within fourteen (14) days of service of the Memorandum Decision; and
 10. Defendants shall file a response within ten (10) days of service of the amended complaint.

IT IS SO ORDERED.

DATED: March 3 , 2011

/s/ OLIVER W. WANGER
United States District Court Judge