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6 **IN THE UNITED STATES DISTRICT COURT FOR THE**
7 **EASTERN DISTRICT OF CALIFORNIA**
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10 **ROBERT D. MIX,**

1:13-cv-823-AWI-MJS

11 Plaintiff,

**ORDER DENYING DEFENDANTS’
REQUEST FOR RELIEF**

12 v.

13 **AUDREY KING, Executive Director,**
14 **CSH; LINDSEY CUNNINGHAM,**
15 **Psychologist, CSH; DR. SALOUM,**
16 **Psychiatrist, CHS,**

Defendants.
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18 Defendants Dr. Cunningham and Dr. Saloum have requested relief from this Court’s
19 September 29, 2015 order (Doc. 33), insofar as it denied Defendants’ motion for summary
20 judgment based, in part, on information provided for the first time in Plaintiff’s objections to the
21 Magistrate Judge’s Findings and Recommendations. Defendants base their request on counsel’s
22 assertion that he was surprised – within the meaning of Fed. R. Civ. P. 60(b)(1) – by the Court’s
23 consideration of the substance of Plaintiff’s objections without specifically directing the
24 Defendants to respond prior to ruling. The Magistrate Judge’s Findings and Recommendations
25 made clear that “[a]ny reply to [] objections shall be served within fourteen (14) days after
26 service of the objections.” Doc. 27 at 6 (emphasis removed). Defendants elected not to reply.
27 This Court will not vacate its September 29, 2015 order to permit Defendants to file a new
28 opposition.

1 This Court will permit Defendants to file a motion for reconsideration of the partial
2 denial of summary judgment within 14 days of the date of this order.

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4 IT IS SO ORDERED.

5 Dated: November 10, 2015



6 SENIOR DISTRICT JUDGE

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