

1 the applicable requirements. *Karim-Panahi v. Los Angeles Police Department*, 839 F.2d 621, 627
2 (9th Cir.1988); *Butler v. Los Angeles County*, 617 F.Supp.2d 994, 1001 (C.D.Cal.2008).
3 California’s Government Claims Act (“CGCA”), set forth in California Government Code
4 sections 810 et seq., provides that, if a claimant misses a deadline, he or she may file a written
5 application for leave to file a late claim, within a year after the accrual of the cause of action. Cal.
6 Govt. Code § 911.4. If the Board denies the application, as happened here (*see* Doc. 17, p. 17),
7 no court action may be brought on the claim unless the claimant first files a petition with the
8 superior court requesting relief from the claim presentation requirement and obtains a court order
9 granting such relief. *Id.*, §§ 911.8, 946.6(a). Plaintiff’s failure to obtain such relief bars his suit
10 on his claims under state law in this action.

11 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the Court has conducted a
12 *de novo* review of this case. Having carefully reviewed the entire file, the Court finds the
13 Findings and Recommendations to be supported by the record and by proper analysis.

14 Accordingly, IT IS HEREBY ORDERED that:

- 15 1. The Findings and Recommendations, that issued on March 14, 2018, is adopted in
16 full; and
- 17 2. Plaintiff may proceed on the following cognizable Eighth Amendment claims as
18 stated in the First Amended Complaint:
 - 19 a. Against C/O Caldwell, Lt. Gonzales, C/O H. Flores, and C/O S. Longoria
20 for use of excessive force;
 - 21 b. Against C/Os L. Cahlander, R. Roque, K. Cowart, T. Harris, A. Fernandez,
22 R. Adame, A. Casas, M. Garin, D. Nora, and A. Rocha for failing to
23 intervene and protect Plaintiff; and
 - 24 c. Against C/Os Longoria, R. Guerra, Lt. J. Gonzales, LVN S. Branson, Sgt.
25 Magallanes and C/Os A. Casas, R. Roque, and D. Nora for deliberate
26 indifference to Plaintiff’s serious medical needs.
- 27 3. Warden Dave Davey, all claims against him, and all of Plaintiff’s claims under
28 California law are dismissed with prejudice.

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4. The action is referred to the Magistrate Judge for service of process.

IT IS SO ORDERED.

Dated: April 11, 2018

/s/ Lawrence J. O'Neill
UNITED STATES CHIEF DISTRICT JUDGE