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6 **UNITED STATES DISTRICT COURT**

7 EASTERN DISTRICT OF CALIFORNIA

8
9 SOPHIA ELLIOTT, et al.,

10 Plaintiffs,

11 v.

12 ANDRES SOLIS, et al.,

13 Defendants.
14

Case No. 1:17-cv-01214-LJO-SAB

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS

(ECF No. 16)

15 On September 15, 2017, Defendants County of Fresno (“Fresno County”), Deputy Andres Solis
16 (“Deputy Solis”), Fresno County Sheriff’s Department (“Sheriff’s Department”) (collectively, “County
17 Defendants”) filed their motion to dismiss, motion for a more definite statement, and memorandum for
18 both motions. (ECF Nos. 4, 5.) On September 19, 2017, the motions were referred to a United States
19 magistrate judge for issuance of findings and recommendations pursuant to 28 U.S.C. § 636(b)(1)(B)
20 and Local Rule 302. (ECF No. 6.)

21 On October 24, 2017, the magistrate judge filed a findings and recommendations. (ECF No. 16.)
22 The findings and recommendations recommended that County Defendants’ motion to dismiss and
23 motion for a more definite statement be granted. The findings and recommendations was served on the
24 parties and contained notice that any objections to the findings and recommendations were to be filed
25 within fourteen days (14) days from the date of service. The period for filing objections has passed and
26 no objections have been filed.

27 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a de
28 novo review of this case. Having carefully reviewed the entire file, the Court finds the findings and

1 recommendations to be supported by the record and by proper analysis.

2 Accordingly, IT IS HEREBY ORDERED that:

- 3 1. The findings and recommendations filed on October 24, 2017, is ADOPTED IN FULL;
- 4 2. County Defendants' motion to dismiss is GRANTED as follows:
 - 5 a. Fresno County Sheriff's Department is dismissed as a defendant without leave to amend;
 - 6 b. Punitive damages allegations against Fresno County are dismissed without leave to
7 amend;
 - 8 c. The Fifth Amendment and Eighth Amendment theories in the first cause of action are
9 dismissed without leave to amend;
 - 10 d. The Fourteenth Amendment theory in the first cause of action is dismissed with leave to
11 amend;
 - 12 e. The direct liability claims against Fresno County in the fifth and ninth causes of action
13 are dismissed with leave to amend;
 - 14 f. The seventh cause of action for respondeat superior as a standalone claim is dismissed
15 without leave to amend;
 - 16 g. The Section 13 of Article I of the California Constitution claim in the eighth cause of
17 action for negligence is dismissed without leave to amend; and
 - 18 h. The eleventh cause of action for negligent infliction of emotional distress is dismissed
19 without leave to amend;
- 20 3. County Defendants' motion for a more definite statement is GRANTED; and
- 21 4. Plaintiffs shall file a first amended complaint within fourteen (14) days of the date of
22 service of this order.

23
24 IT IS SO ORDERED.

25 Dated: November 9, 2017

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