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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROGER ARDEN ELSETH; PATRICIA ANN
ELSETH; and ALLEN ELSETH by his
guardian ad litem ROGER ARDEN
ELSETH AND PATRICIA ANN ELSETH,

Plaintiffs,

v.

VERNON SPEIRS, Chief Probation
Officer of the County of
Sacramento; DAVID GORDON,
Superintendent Sacramento
County Department of
Education; SHERIFF of the
County of Sacramento,
Deputy Sheriff TAM; Deputy
Sheriff ALLENGUIRY; and
DR. SAXTON, M.D.,

Defendants.

2:08-cv-2890-GEB-KJM

ORDER¹

Defendant Dr. Richard Saxton ("Saxton") moves for a more definite statement of Plaintiff's third claim, arguing he cannot respond to this claim because it encompasses two separate claims: a claim alleging he was deliberately indifferent to Plaintiff Allen Elseth's ("Allen") medical needs because he failed to report abuse Allen suffered while he was detained at the Sacramento County Juvenile Hall, and a claim alleging Saxton "failed and refused to keep [Plaintiffs Roger Arden Elseth and Patricia Ann Elseth (collectively

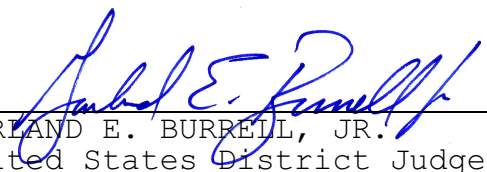
¹ This matter was determined to be suitable for decision without oral argument. L.R. 78-230(h). Unless otherwise indicated, all references to Rules are to the Federal Rules of Civil Procedure.

1 the "Elseths")] informed as to medications provided to their son[,
2 Allen]." (First Amended Complaint ("FAC") ¶ 8.3). Saxton also moves
3 for dismissal of the portion of Plaintiffs' third claim in which
4 Plaintiffs allege Saxton was deliberately indifferent to Allen's
5 medical needs, arguing insufficient facts are alleged to make this an
6 actionable claim.

7 "The test in evaluating a motion [for a more definite
8 statement] under Rule 12(e) is whether the complaint provides the
9 defendant[s] with a sufficient basis to frame [their] responsive
10 pleadings." Ham v. Cont'l Ins. Co., 2009 WL 513474 *2 (N.D. Cal.
11 2009). Saxton argues he cannot respond to Plaintiffs' third claim
12 because this claim includes two separate claims which are based on
13 separate transactions; and/or damages are sought for only one of the
14 transactions. (FAC ¶¶ 8.4, 8.5, 8.6.) Saxton is correct in his
15 argument that Plaintiffs' third claim is based on two separate
16 transactions. Therefore, Saxton's motion for a more definite
17 statement is granted. Plaintiffs are granted ten days leave from the
18 date on which this Order is filed to file a Second Amended Complaint
19 in which they comply with this order.

20 Since the Second Amended Complaint which Plaintiffs now have
21 leave to file may address the basis of Saxton's dismissal motion, the
22 dismissal motion is no longer ripe for decision, and is therefore
23 denied.

24 Dated: April 9, 2009

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26 
27 GARDLAND E. BURRELL, JR.
28 United States District Judge