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

GEORGE FETTER,)	
)	2:12-cv-02235-GEB-EFB
Plaintiff,)	
)	
v.)	<u>ORDER DENYING IN PART AND</u>
)	<u>GRANTING IN PART MOTION TO</u>
PLACER COUNTY SHERIFF, EDWARD N.)	<u>DISMISS</u>
BONNER individually and in his)	
Official Capacity; COUNTY OF)	
PLACER; CALIFORNIA FORENSICS)	
MEDICAL GROUP (CFMG); and PLACER)	
COUNTY SHERIFF DEPARTMENT,)	
)	
Defendants.)	
_____)	

Defendants Placer County Sheriff Edward Bonner and the County of Placer move under Federal Rule of Civil Procedure 12(b)(6) for dismissal of Plaintiff's first, third, fourth, and seventh claims in Plaintiff's complaint, for the following reasons: "1) the Placer County Sheriff's Dept. is not a person that can be sued under 42 U.S.C. Section 1983; 2) Sheriff Bonner should not be named in his official capacity in the Section 1983 claim because plaintiff already named the County of Placer - adding the Sheriff in his official capacity is redundant; 3) plaintiff has not alleged direct involvement on the part of Sheriff Bonner that would support a Section 1983 claim against him in his individual capacity; 4) plaintiff has not alleged an unconstitutional custom, policy, or practice that can support a Monell claim against either Sheriff Bonner in his official capacity or the County of Placer; 5) plaintiffs allegations of a conspiracy to violate plaintiff's constitutional rights are impermissibly conclusory and implausible; 6)

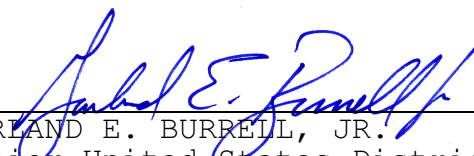
1 Sheriff Bonner should not be named in his individual capacity for claims
2 based on disability discrimination statutes since those go against the
3 employer, not employees; 7) the ADA and Rehabilitation Act claims cannot
4 be made for what are essentially medical malpractice claims." (Defs.
5 Placer County Sheriff Edward Bonner & County Placer's Mem. P. & A. Supp.
6 Mot. Dismiss ("Mot"), ECF No. 17-1, 1:3-18.) Plaintiff did not oppose
7 the motion or file a statement of non-opposition to the motion as
8 required by Local Rule 230. E.D. Cal. R. 230(c).

9 Since the movants have not shown that they have standing to
10 bring a motion on behalf of the Placer County Sheriff's Department, this
11 portion of the motion is denied.

12 Further, since review of the challenged claims reveals that
13 Plaintiff's conclusory allegations against Defendants Placer County
14 Sheriff Edward Bonner and the County of Placer are insufficient to state
15 actionable claims, Plaintiff's first, third, fourth, and seventh claims
16 are dismissed against these movant Defendants.

17 However, Plaintiff is granted fourteen (14) days from the date
18 on which this order is filed to file an amended complaint addressing the
19 deficiencies in any dismissed claim against Defendants Placer County
20 Sheriff Edward Bonner and the County of Placer. Plaintiff is warned that
21 a dismissal with prejudice could be entered under Rule 41(b) if
22 Plaintiff fails to file an amended complaint within the prescribed time
23 period.

24 Dated: April 29, 2013

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27 _____
28 GARLAND E. BURRELL, JR.
Senior United States District Judge