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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GEORGE FETTER,

Plaintiff,

v.

PLACER COUNTY SHERIFF, EDWARD
N. BONNER, individually and
in his official capacity,
COUNTY OF PLACER, CALIFORNIA
FORENSICS MEDICAL GROUP
(CFMG), PLACER COUNTY SHERIFF
DEPARTMENT, and DOES 1
THROUGH 20,

Defendants.

No. 2:12-cv-02235-GEB-EFB

ORDER GRANTING IN PART AND
DENYING IN PART MOTION TO
DISMISS; DENYING MOTION TO
STRIKE

Defendants Placer County Sheriff Edward N. Bonner,
County of Placer ("Placer County"), and Placer County Sheriff's
Office ("PCSO")¹ (collectively, "Defendants") jointly move under
Federal Rule of Civil Procedure ("Rule") 12(b)(6) for dismissal
of Plaintiff's Second Amended Complaint ("SAC"), which comprises
claims alleged under 42 U.S.C. §§ 1983, 1985(3), Title II of the
Americans with Disabilities Act ("ADA"), § 504 of the
Rehabilitation Act ("RA"), and California law. Defendants move in
the alternative under Rule 12(e) for a more definite statement of
certain of Plaintiff's claims. Plaintiff filed an opposition

¹ Since the PCSO argues in the dismissal motion that Plaintiff erroneously
sued it as the "Placer County Sheriff Department," this Order refers to this
Defendant as the PCSO.

1 addressing portions of the motions.

2 **I. FACTUAL ALLEGATIONS**

3 The motions concern the following allegations in the
4 SAC. "[P]laintiff . . . was cited for Driving while Under the
5 Influence and was jailed for that offense." (SAC ¶ 12, ECF No.
6 39.) Prior to being jailed, "Plaintiff had fallen off a roof and
7 injured both of his legs and ankles" and "was under the care of a
8 doctor for the injuries that he had received." (Id. ¶¶ 11-12.)
9 After his arrest, Plaintiff was "initially booked in at the
10 medical facility because of his injuries." (Id. ¶ 32.) There, "it
11 was documented that the Plaintiff had calcaneous (Heel) injuries
12 to both his right and left feet." (Id.) "[A]lthough he had
13 injuries to both feet and could barely walk and could not walk
14 without pain [Plaintiff] was not provided a wheel chair." (Id.)
15 "Instead of a wheel chair . . . Plaintiff was provided a chair in
16 which he would have to use his injured feet to make it mobile and
17 had to scoot around causing much pain to both of his injured
18 feet." (Id.) Plaintiff was also "placed on the [jail's] upper
19 tier for housing, forcing him to have to climb a full flight of
20 stairs to get to his cell" (Id.) "While incarcerated
21 Plaintiff['s] leg began to turn black as he was suffering from
22 compartment syndrome." (Id. ¶ 15.) "Although Plaintiff made
23 several request of the Defendant to allow him to see a doctor and
24 even informed them [sic] that his leg was turning black, the
25 Defendant still refused to allow the plaintiff the opportunity to
26 see a medical doctor." (Id. ¶ 88.)

27 "Plaintiff was ultimately released from his
28 incarceration . . . [.] [He] immediately went to see a doctor and

1 was informed that the condition of his leg was so severe . . .
2 that it would have to be amputated.” (Id. ¶ 17.) After seeking a
3 second opinion confirming that diagnosis, “Plaintiff’s right leg
4 was . . . amputated.” (Id. ¶¶ 18-19.)

5 **II. LEGAL STANDARD**

6 Decision on a Rule 12(b)(6) dismissal motion requires
7 determination of “whether the complaint’s factual allegations,
8 together with all reasonable inferences, state a plausible claim
9 for relief.” United States ex rel. Cafasso v. Gen. Dynamics C4
10 Sys., Inc., 637 F.3d 1047, 1054 (9th Cir.2011) (citing Ashcroft
11 v. Iqbal, 556 U.S. 662, 678-79 (2009)). “A claim has facial
12 plausibility when the plaintiff pleads factual content that
13 allows the court to draw the reasonable inference that the
14 defendant is liable for the misconduct alleged.” Iqbal, 556 U.S.
15 at 678 (citing Bell Atlantic v. Twombly, 550 U.S. 544, 556
16 (2007)).

17 When determining the sufficiency of a claim under Rule
18 12(b)(6), “[w]e accept factual allegations in the complaint as
19 true and construe the pleadings in the light most favorable to
20 the non-moving party.” Fayer v. Vaughn, 649 F.3d 1061, 1064 (9th
21 Cir.2011) (internal quotation marks omitted). However, this tenet
22 does not apply to “legal conclusions . . . cast in the form of
23 factual allegations.” Id. (internal quotation marks omitted).
24 “Therefore, conclusory allegations of law and unwarranted
25 inferences are insufficient to defeat a motion to dismiss.” Id.
26 (internal quotation marks omitted); see also Iqbal, 556 U.S. at
27 678 (quoting Twombly, 550 U.S. at 555) (“A pleading that offers
28 ‘labels and conclusions’ or ‘a formulaic recitation of the

1 elements of a cause of action will not do.'")

2 **III. DISCUSSION**

3 **a. § 1983 Claims Against Placer County, the PCSO, and**
4 **Sheriff Bonner in his Official Capacity**

5 Defendants seek dismissal of Plaintiff's official
6 capacity § 1983 claim against Sheriff Bonner and Plaintiff's §
7 1983 claim against Placer County and the PCSO, arguing in essence
8 that certain of Plaintiff's allegations fail to plausibly allege
9 that any injury Plaintiff suffered was caused by a movant.

10 To state a § 1983 claim against a local government
11 entity, a plaintiff must allege "that 'the local government
12 [entity] had a deliberate policy, custom, or practice that was
13 the moving force behind the constitutional violation [a
14 plaintiff] suffered.'" AE ex rel. Hernandez v. Cnty. of Tulare,
15 666 F.3d 631, 636 (9th Cir. 2012) (quoting Whitaker v. Garcetti,
16 486 F.3d 572, 581 (9th Cir. 2007)). This same requirement also
17 applies to official capacity § 1983 suits against municipal
18 officers since such suits are "equivalent to a suit against the
19 entity." Ctr. for Bio-Ethical Reform, Inc. v. Los Angeles Cnty.
20 Sheriff Dep't, 533 F.3d 780, 799 (9th Cir. 2008).

21 Plaintiff alleges in the SAC:

22 I[t] was and still is the policy and practice
23 of the Defendants to not transport . . .
24 inmates to an outside medical facility
without an order from the Court.

25 It was and still is the policy of the
26 Defendants to only permit inmates to see
27 medical person[n][e]l that [are] employed by
the Placer County Jail while they [are] in
Custody of the Defendant.

28 (SAC ¶¶ 25-26.)

1 These allegations do not adequately allege that
2 Plaintiff was denied medical care because of these policies or
3 practices, and therefore Plaintiff has not sufficiently alleged
4 facts showing that a referenced policy or practice "was the
5 moving force behind the [alleged] constitutional violation [he]
6 suffered." AE ex rel. Hernandez v. Cnty. of Tulare, 666 F.3d
7 631, 636 (9th Cir. 2012) (quoting Whitaker v. Garcetti, 486 F.3d
8 572, 581 (9th Cir. 2007)).

9 Defendants also argue that Plaintiff's allegations that
10 Defendants failed to adequately hire, train, and supervise jail
11 personnel do not plausibly state a § 1983 official capacity claim
12 against Sheriff Bonner and a § 1983 claim against Placer County
13 and the PCSO.

14 Alleged failure by a municipality to hire, train, and
15 supervise personnel "may serve as the basis for § 1983 liability
16 only where the failure . . . amounts to deliberate indifference
17 to the rights of persons with whom [municipal employees] come
18 into contact." Flores v. Cnty. of Los Angeles, --- F.3d. ----,
19 12-56623, 2014 WL 3397219, at * 2 (9th Cir. July 14,
20 2014) (quoting City of Canton v. Harris, 489 U.S. 378, 388 (1989);
21 see also Dougherty v. City of Covina, 654 F.3d 892, 900 (9th Cir.
22 2011) ("a failure to supervise that is 'sufficiently inadequate'
23 may amount to 'deliberate indifference.'"). To state a plausible
24 claim under this standard, "[a plaintiff] must allege facts . . .
25 show[ing] that the [municipality] 'disregarded the known or
26 obvious consequence that a particular omission in [its] training
27 program would cause [municipal] employees to violate citizens'
28 constitutional rights.'" Flores, --- F.3d. ----, 2014 WL 3397219,

1 at * 2 (emphasis added) (quoting Connick v. Thompson, --- U.S. ---
2 -, 131 S.Ct. 1350, 1360 (2011)).

3 Plaintiff alleges in a conclusory manner that Placer
4 County, the PCSO, and Sheriff Bonner failed to appropriately
5 hire, train, and supervise jail personnel, and that these
6 failures resulted in Plaintiff's injuries. (See SAC ¶¶ 24, 27-28,
7 31-33, 34.) These conclusory allegations "do[] not identify what
8 [Defendants'] training [, supervision,] and hiring practices
9 were, how the [these] practices were deficient, or how the[y]
10 caused Plaintiff's harm." Ramirez v. Cnty. of Alameda, C12-4852
11 MEJ, 2013 WL 257087, at *3 (N.D. Cal. Jan. 23, 2013) (See SAC ¶¶
12 24, 27-29, 31-33, 34). Therefore, this portion of the dismissal
13 motion is granted.

14 **b. Individual Capacity § 1983 Claims against Sheriff Bonner**

15 Sheriff Bonner also seeks dismissal of Plaintiff's §
16 1983 claim that sues him in his individual capacity, arguing:
17 "One . . . cannot ascertain from the complaint what Sheriff
18 Bonner personally did, or did not do, to cause the harm
19 complained of by plaintiff" (Defs.' Mot. 13:14-15.)

20 To allege an "individual liability [claim] under . . .
21 § 1983, 'a plaintiff must plead that [a] Government-official
22 defendant, through the official's own individual actions, has
23 violated the Constitution' . . . [or that] the defendant [had]
24 "knowledge of" and "acquiescence in" the unconstitutional conduct
25 of a subordinate. Hydrick v. Hunter, 669 F.3d 937, 942 (9th Cir.
26 2012) (quoting Iqbal, 129 S.Ct. at 1948 and Starr v. Baca, 652
27 F.3d 1202, 1206-07 (9th Cir. 2011)).

28 Plaintiff alleges:

1 Defendant Sheriff Bonner has condoned
2 an ongoing pattern of denial of Inmate
3 requests for medical assistance committed by
4 deputies assigned to the jails. COUNTY and
its officials, including Sheriff Bonner,
maintained or permitted [certain] official
policies, customs, or practices . . .

5 (SAC ¶ 24.) These "conclusory allegations and generalities [lack]
6 any allegation of the specific wrong-doing by [Sheriff Bonner],"
7 and do not plausibly allege that Sheriff Bonner had "'knowledge
8 of' and 'acquiesce[d] in' the unconstitutional conduct of his
9 subordinates." Hydrick, 669 F.3d at 942. Therefore, this portion
10 of the dismissal motion is granted.

11 **c. Conspiracy Claim**

12 Defendants also seek dismissal of Plaintiff's civil
13 rights conspiracy claim, arguing, "[P]laintiff's allegations of
14 conspiracy . . . are mere conclusions with no factual allegations
15 to support them." (Defs.' Mot. 14:24-26.)

16 Plaintiff alleges the following concerning conspiracy:

17 Defendant and each of them, acted
18 individually and in conspiracy with each
19 other to deprive Plaintiff of his federal
20 constitutional and/or statutory rights and or
21 privileges by failing and refusing to provide
Plaintiff with access to medical care and the
accommodations guaranteed him by Federal and
State law.

22 Defendants were acting under the color of
23 state law when Defendants deprived Plaintiff
24 of his federal rights, property interests and
otherwise discriminated against Plaintiff
based upon Plaintiff's disability.

25 Defendants, and each of them, acted
26 individually and in conspiracy with each
27 other to deprive Plaintiff under color of
state law of his rights

28 (SAC ¶¶ 37-39.)

1 These “conclusory allegations . . . [of] conspir[acy]”
2 are devoid of sufficient facts alleging a viable conspiracy
3 claim. Woodrum v. Woodward Cnty., 866 F.2d 1121, 1126 (9th Cir.
4 1989). Therefore, this portion of the dismissal motion is
5 granted.

6 **d. ADA and RA Claims**

7 **i. ADA and RA Claims against Sheriff Bonner**

8 Sheriff Bonner seeks dismissal of Plaintiff’s
9 individual capacity claims alleged under Title II of the ADA and
10 § 504 of the RA, arguing the claims are not cognizable under
11 these statutes. These statutes do not authorize these claims to
12 be alleged against Sheriff Bonner in his individual capacity. See
13 Stewart v. Unknown Parties, 483 F. App’x 374 (9th Cir. 2012)
14 (“Dismissal of [Plaintiff’s] Americans with Disabilities Act
15 (“ADA”) claim was proper because defendants, as individuals, were
16 not liable under Title II of the ADA”); Garcia v. S.U.N.Y. Health
17 Sciences Ctr. of Brooklyn, 280 F.3d 98, 107 (2d Cir. 2001)
18 (“[N]either Title II of the ADA nor § 504 of the Rehabilitation
19 Act provides for individual capacity suits against state
20 officials”); see also Emerson v. Thiel Coll., 296 F.3d 184, 189
21 (3d Cir. 2002) (holding that individual defendants are not liable
22 under section 504 of the RA and noting that “other courts of
23 appeals [have held] that individuals are not liable under Title[]
24 . . . II of the ADA.” (citing Garcia, 280 F.3d at 107 and Walker
25 v. Snyder, 213 F.3d 344, 346 (7th Cir. 2000))). Therefore this
26 portion of the motion is granted.

27 Sheriff Bonner further seeks dismissal of Plaintiff’s
28 official capacity claims against him alleged under Title II of

1 the ADA and § 504 of the RA. Specifically, he argues in a
2 conclusory manner that these claims are duplicative of those
3 alleged against Placer County, and therefore should be dismissed.
4 Although "an action against [a] [county] official[] in [his]
5 official capacit[y] is really an action against the [county],
6 [Sherriff Bonner] cite[s] to no authority requiring dismissal."
7 James v. Perez, 2:08-CV-01857-RRC, 2012 WL 5387676, at *4 (E.D.
8 Cal. Nov. 1, 2012) (citations omitted). Therefore, this portion of
9 the motion is denied.

10 **ii. ADA and RA Claims against Placer County, the PCSO,**
11 **and Official Capacity Claims against Sheriff**
12 **Bonner**

13 Defendants seek dismissal of Plaintiff's Title II ADA
14 and § 504 RA claims, arguing in essence that Plaintiff's
15 allegations in these claims concern alleged medical malpractice
16 and therefore do not constitute disability discrimination
17 proscribed in these statutes.

18 Both Title II of the ADA and § 504 of the RA
19 "prohibit[] discrimination because of disability, not [because
20 of] inadequate treatment for disability." Simmons v. Navajo
21 Cnty., 609 F.3d 1011, 1022 (9th Cir. 2010); see O'Guinn v. Nevada
22 Dep't of Corr., 468 F. App'x 651, 653 (9th Cir. 2012)
23 ("[Plaintiff] challenges the adequacy of his . . . health care, a
24 challenge that cannot be properly brought under the ADA and RA.")
25 Plaintiff alleges in these claims that he "has been denied and
26 excluded from the benefits of Defendants['] Program, which would
27 provide Plaintiff with access to medical care" (SAC ¶ 62;
28 see also id. ¶¶ 16, 67.) These allegations of inadequate medical

1 treatment are insufficient to allege viable Title II ADA and §
2 504 RA claims. Simmons, 609 F.3d at 1022. Therefore this portion
3 of Defendants' motion is granted.

4 Defendants also argue in a conclusory manner that
5 Plaintiff has failed to allege two elements of Title II ADA and §
6 504 RA claims: "[1] that he was denied access to [a program],
7 [and] [2] that he was denied access to such programs because of a
8 disability." (Defs.' Mot. 20:6-8.)

9 To state a Title II ADA claim, a plaintiff must allege,
10 inter alia:

11 (1) he is an individual with a disability; .
12 . . . [2] he was either excluded from
13 participation in or denied the benefits of
14 the public entity's services, programs, or
15 activities, or was otherwise discriminated
16 against by the public entity; and [3] such
17 exclusion, denial of benefits, or
18 discrimination was by reason of [his]
19 disability.

20 Simmons, 609 F.3d at 1021 (quoting McGary v. City of Portland,
21 386 F.3d 1259, 1265 (9th Cir. 2004) (alteration in original)).
22 "Similarly, to state a [§ 504 RA] claim[,] a plaintiff must
23 allege [inter alia] '(1) he is an individual with a disability;
24 (2) he is otherwise qualified to receive the benefit [of a
25 program]; (3) he was denied the benefits of the program solely by
26 reason of his disability'" O'Guinn v. Lovelock
27 Correctional Ctr., 502 F.3d 1056, 1060 (9th Cir. 2007) (quoting
28 Duvall v. Cnty. of Kitsap, 260 F.3d 1124, 1135 (9th Cir. 2001)).

29 Plaintiff alleges in the SAC that he was housed in a
30 cell located on the upper-tier of the jail, "despite the fact
31 that officers knew . . . that such housing would be detrimental
32 to the Plaintiff." (Id. ¶ 32.) Defendants have not shown that

1 these allegations fail to state the challenged claims. Therefore,
2 this portion of Defendants' motion is denied.

3 **iii. Motion for a More Definite Statement**

4 Defendants move in the alternative under Rule 12(e) for
5 a more definite statement of Plaintiff's ADA and RA claims which
6 are based on his placement in an upper-tier cell. Defendants
7 argue that this ADA claim is vague. However, they fail to "point
8 out [in their motion] . . . the details desired [in this claim],"
9 which is a required showing to obtain relief under Rule 12(e).
10 Fed. R. Civ. P. 12(e). Therefore, this portion of the motion is
11 denied.

12 Defendants also seek a more definite statement of the
13 official capacity RA claim against Sheriff Bonner and the RA
14 claim against Placer County and the PCSO, arguing Plaintiff fails
15 to "identify which named defendants his [RA] claim . . .
16 addresses . . . and refers to both 'defendant's' and 'defendants'
17 as being responsible for . . . harms alleged in this claim."
18 (Defs.' Mot 7:27-8:2.) However, read as a whole, the allegations
19 in these claims indicate that these claims are against Placer
20 County, the PCSO, and Sheriff Bonner in his official capacity.
21 (See SAC ¶¶ 68-69.) Accordingly, this portion of the motion is
22 denied.

23 **e. Section 11135 of the California Government Code**

24 Each Defendant seeks dismissal of Plaintiff's Section
25 11135 claim, in which Plaintiff alleges Defendants denied him
26 equal access to the benefits of a state-funded program by denying
27 him a wheelchair and by housing him in an upper-tier cell.
28 Defendants argue Plaintiff has not adequately alleged that he was

1 "denied access to any specific program due to his alleged
2 disability" or "denied any access to any part of the Placer
3 County Jail." (Defs.' Mot. 20:14-15, 21: 9-10.)

4 Section 11135 states, in pertinent part:

5 No person in the State of California shall,
6 on the basis of . . . disability, be
7 unlawfully denied full and equal access to
8 the benefits of, or be unlawfully subjected
9 to discrimination under, any program or
10 activity that is conducted, operated, or
11 administered by the state or by any state
12 agency, is funded directly by the state, or
13 receives any financial assistance from the
14 state.

15 Cal. Gov't Code § 11135(a).

16 "California Code of Regulations, title 22, section
17 98010 provides the definition of 'program or activity' as used in
18 section 11135.'" Comunidad En Accion v. Los Angeles City Council,
19 219 Cal. App. 4th 1116, 1125 (2013) (quoting Cal. Code Regs. tit.
20 22, § 98010). Section 98010 prescribes: "'Program or activity'
21 means any project, action or procedure undertaken directly by
22 recipients of State support Such programs or activities
23 include, but are not limited to, . . . the provision of . . .
24 health, welfare, rehabilitation, housing, or other services; . .
25 . ." (emphasis added).

26 Defendants have not shown that Plaintiff's allegations
27 should be dismissed. Therefore, this portion of their motion is
28 denied.²

29 Defendants also seek dismissal of Plaintiff's section
30 11135 claim that is based on Defendant's alleged refusal to

31 ² Defendants move in the alternative under Rule 12(e) for a more definite
32 statement of these section 11135 allegations. However, Defendants fail to
33 provide sufficient argument supporting this request. Therefore, it is denied.

1 permit Plaintiff access to outside medical care. Defendants argue
2 Plaintiff fails to allege he was denied access to this care
3 because of his disability.

4 Plaintiff alleges in the SAC:

5 During . . . [P]laintiff's . . .
6 incarceration he was not allowed to see a
7 doctor or be transported to a hospital
8 although . . . Defendants knew about [his]
injuries and [he] made numerous requests that
he be allowed to see a doctor.

9 (SAC ¶ 14.) This allegation does not contain facts that support
10 drawing the reasonable inference that Plaintiff was denied access
11 to outside medical care because of his disability. See Cal. Gov't
12 Code § 11135(a) ("No person . . . shall, on the basis of . . .
13 disability, be unlawfully denied" (emphasis added)).
14 Therefore, this portion of the motion is granted.

15 **f. California Disabled Persons Act Claim**

16 Defendants seek dismissal of Plaintiff's claim alleged
17 under the California Disabled Persons Act ("CDPA"), arguing in
18 its Notice of Motion that "Plaintiff . . . fails to allege any
19 kind of physical barrier that has prevented [him] from accessing
20 facilities available to others" (Defs.' Notice of Mot.
21 3:12-16, ECF No. 41.) Plaintiff alleges that Defendants denied
22 him a wheelchair and housed him in an upper-tier cell. Since
23 Defendants have not addressed these allegations in this portion
24 of their motion, it is denied.³

25 **g. Negligence, Negligent Infliction of Emotional Distress,**
26 **and Negligent Hiring and Supervision**

27 ³ Defendants move in the alternative under Rule 12(e) for a more definite
28 statement of Plaintiff's CDPA claim, but fail to provide sufficient argument
supporting this request. Therefore, it is denied.

1 **i. Individual Capacity Claims against Sheriff Bonner**

2 Sherriff Bonner seeks dismissal of the following
3 individual capacity claims: negligence, negligent hiring and
4 supervision, and negligent infliction of emotional distress.
5 Specifically, Sheriff Bonner argues section 820.8 of the
6 Government Code shields him from being exposed to liability for
7 these torts.

8 Section 820.8 of the Government Code prescribes:
9 "Except as otherwise provided by statute, a public employee is
10 not liable for an injury caused by the act or omission of another
11 person. Nothing in this section exonerates a public employee from
12 liability for injury proximately caused by his own negligent or
13 wrongful act or omission." Cal. Gov't Code § 820.8.

14 Plaintiff alleges in the SAC: "Sheriff Bonner . . .
15 condoned an ongoing pattern of denial of Inmate requests for
16 medical assistance committed by deputies assigned to the jails"
17 and "maintained or permitted [certain] official policies,
18 customs, or practices" concerning the referenced denials. (SAC ¶
19 24.) These conclusory allegations are insufficient to support
20 drawing a reasonable inference that Sheriff Bonner caused
21 Plaintiff's alleged injury. Fayer, 649 at 1064 ("[C]onclusory
22 allegations of law and unwarranted inferences are insufficient to
23 defeat a motion to dismiss."). Therefore, this portion of
24 Defendant's dismissal motion is granted. See Herrera v. City of
25 Sacramento, 2:13-CV-00456 JAM-AC, 2013 WL 3992497, at *3 (E.D.
26 Cal. Aug. 2, 2013) (dismissing state law individual capacity
27 claims against supervisor where Plaintiff "fail[ed] to allege
28 [supervisor] personally participated in the conduct giving rise

1 to the allegations in the complaint.”)

2 **ii. Claims Against Placer County, the PCSO, and Sheriff**
3 **Bonner in his Official Capacity**

4 Each Defendant seeks dismissal of Plaintiff’s
5 negligence, negligent hiring and supervision, and negligent
6 infliction of emotional distress claims that are predicated on
7 Defendants’ alleged failure to provide adequate non-emergency
8 medical care. The essence of Defendants’ dismissal argument is
9 that under section 845.6 of the California Government Code they
10 are statutorily immune from being exposed to liability for these
11 claims. Plaintiff did not respond to this portion of the motion.

12 “Under Government Code section 845.6, both a public
13 entity and its employees are immune from claims based on injuries
14 to prisoners caused by a failure to provide medical care, except
15 when an employee, acting within the scope of his employment,
16 fails to provide medical care to a prisoner and has reason to
17 know that need for medical care is immediate.” Lawson v. Superior
18 Court, 180 Cal. App. 4th 1372, 1384 (2010).

19 Plaintiff alleges in the SAC:

20 During [P]laintiff’s
21 incarceration he was not allowed to see a
22 doctor or be transported to a hospital
23 although . . . Defendants knew about [his]
injuries and [he] made numerous requests that
he be allowed to see a doctor.

24

25 On and between the dates of January 2011 and
26 August 2012 [P]laintiff had informed the
27 Defendants on numerous occasions that he was
in pain and that he needed to and wanted to
see a doctor. Each time [P]laintiff made such
a request his request was denied.

28

