

1 In the findings and recommendations, Defendant’s qualified immunity claim is analyzed
2 under *Saucier v. Katz*, 533 U.S. 194 (2001). (ECF No. 43 at 10.) In *Saucier*, the Supreme Court
3 stated that in resolving government officials’ qualified immunity claim, a court must first analyze
4 whether a plaintiff alleges facts sufficient to show that the defendant’s violated the claimant’s
5 constitutional rights. *Saucier*, 533 U.S. at 201. In *Pearson v. Callahan*, 555 U.S. 223 (2009), the
6 Supreme Court receded from *Saucier*, deciding that “while the sequence set forth there is often
7 appropriate, it should no longer be regarded as mandatory,” and district courts should exercise
8 their discretion in deciding which of then two prongs to analyze first. *Id.* at 236.

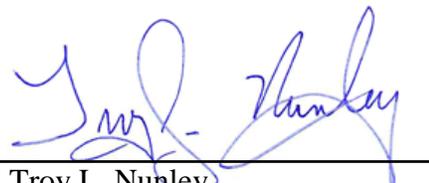
9 This Court has reviewed Defendant’s qualified immunity claim in light of *Pearson* and
10 determined that the analysis of each prong in the findings and recommendations is correct and
11 supported by the record and this Court adopts the conclusion in the findings and recommendation.

12 Accordingly, IT IS HEREBY ORDERED that:

- 13 1. The findings and recommendations filed January 2, 2018 are adopted in full;
- 14 2. Defendants’ motion to dismiss, ECF No. 31, is DENIED as to defendant Rapoport with
15 respect to the Fourteenth Amendment substantive due process claim and against defendant Virga
16 with respect to the First Amendment retaliation claim;
- 17 3. Plaintiff’s procedural due process claim against defendant Rapoport is DISMISSED;
- 18 4. All claims for monetary damages against the defendants in their official capacities are
19 DISMISSED;
- 20 5. Plaintiff’s motion to process the case, ECF No. 42, is DENIED as moot.

21 IT IS SO ORDERED.

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23 Dated: March 27, 2018

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26 Troy L. Nunley
27 United States District Judge
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