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

ROGER GIFFORD,

Plaintiff,

v.

HORNBROOK FIRE PROTECTION
DISTRICT, et al.,

Defendants.

No. 2:16-CV-0596-JAM-DMC

ORDER

Plaintiff, who is proceeding pro se, brings this civil action. Pending before the court are plaintiff's motion to strike defendants' answer to the first amended complaint (ECF No. 30) and defendants' motion for judgment on the pleadings (ECF No. 31). Plaintiff's motion to strike was submitted without oral argument. Defendants' motion for judgment on the pleadings was set for hearing on September 11, 2019, at 10:00 a.m., before the undersigned in Redding, California. John R. Powell, Esq., appeared for defendants. Plaintiff did not appear. No oral argument was conducted and defendants' motion was submitted.

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1 **I. BACKGROUND**

2 **A. Procedural History**

3 Plaintiff initiated this action on March 22, 2016. See ECF No. 1. Thereafter,
4 the court granted plaintiff’s application for leave to proceed in forma pauperis, see ECF No. 3,
5 and directed the Clerk of the Court to issue process for service on Hornbrook Fire Protection
6 District, Woodrow Mattingly, Adria Buckley, Sharon Morin, Lee Buckley, and Joseph Hott,
7 see ECF No. 5. Service of process was returned executed as to defendant Hott on December
8 19, 2018. See ECF No. 10. Defendant Hott failed to file a timely response to plaintiff’s
9 complaint and his default was entered on February 25, 2019. See ECF No. 12. Service of
10 process was returned executed as to defendants Adria Buckey, Lee Buckley, and Hornbrook
11 Fire Protection District on March 25, 2019. See ECF Nos. 16 and 17.

12 On April 8, 2019, defendants Hornbrook Fire Protection District, Adria
13 Buckley, and Sharon Morin filed an answer to plaintiff’s complaint. See ECF No. 19. On
14 April 19, 2019, plaintiff filed his first amended complaint. See ECF No. 23. Plaintiff names
15 the following as defendants: (1) Hornbrook Fire Protection District; (2) Adria Buckley; (3)
16 Sharon Morin; (4) Lee Buckley; and (5) Joseph Hott. See id. at 1. Woodrow Mattingly is not
17 named in the first amended complaint. Defendants Hornbrook Fire Protection District, Adria
18 Buckley, Sharon Morin, and Joseph Hott filed an answer to plaintiff’s first amended complaint
19 on May 7, 2019.¹

20 Though defendant Lee Buckley appears to have been served but not to have
21 timely appeared, plaintiff has not sought this defendant’s default.

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27 ¹ Defendant Hott’s default was entered following his failure to timely respond to the
28 original complaint. Because plaintiff filed a superseding first amended complaint which
defendant Hott timely answered, defendant Hott is no longer in default in this matter.

1 **B. Plaintiff's Allegations**

2 According to plaintiff, this court has subject-matter jurisdiction because his
3 claims arise under the First Amendment, the Fourth Amendment, the Fourteenth Amendment,
4 42 U.S.C. §§ 1983, 1985, 1986, and 1988, as well as the Fair Labor standard Act, 18 U.S.C.
5 §§ 1513(e) and 1846. See id. at 2. Plaintiff alleges the following nine federal claims:

- 6 Count I Violation of Plaintiff's Right to Freedom of Speech and
7 Petition.
- 8 Count II Violations of Plaintiff's Right to Due Process and to Equal
9 Protection of the Laws; Unlawful Seizure.
- 10 Count III Deprivation of Right to Free Speech and Petition – Right to
11 Vote.
- 12 Count IV Deprivation of Right to Vote – Conspiracy for Deprivation
13 of Rights – 42 U.S.C. 1985.
- 14 Count V Violation of Rights to Due Process, Equal Protection, Free
15 Speech and petition, and Liberty Interests as to Hornbrook
16 Fire Protection District (HFPD), Board Defendants.
- 17 Count VI Violation of Title VII of the Civil Rights Act – Unlawful
18 Retaliation.
- 19 Count VII Retaliation in Employment by HFPD, Board Defendants; 42
20 U.S.C. 300j-9(i).
- 21 Count VIII Retaliation by HFPD and Board Defendants; 18 U.S.C.
22 1513(e).
- 23 Count IX Violation of 42 U.S.C. 1985 as to HFPD, Board Defendants.

24 See ECF No. 23, pgs.13-26.

25 Plaintiff also alleges 12 state law claims. See id. at 26-36.

26 Initially, plaintiff states:

27 The primary thrust of this action is that the defendants, in
28 attempting to dominate and control the tiny Hornbrook Fire Protection
29 District, acted to stifle, interfere with, intimidate, coerce, retaliate against,
30 and oppress Plaintiff Gifford. . . . while also suffering retaliation in his
31 employment with the HFPD, while being denied various notices,
32 procedures, review, and other due process afforded him by the HFPD
33 Bylaws, and his contract with the District. . . .

34 Id., at 1-2.

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1 The factual predicate of plaintiff’s lawsuit appears to be his efforts to bring
2 what he considered needed reform to HFPD. Generally, plaintiff alleges the following:

3 1. The action is based on plaintiff’s interactions with
4 defendants which began two years prior to the filing of the action when
plaintiff was a member of the Board of Directors of HFPD.

5 2. HFPD is woefully underfunded, undermanned, and
6 underequipped and is a “remnant of bygone days, serving a tiny community
of some 400 people next to the Oregon border in Northern California.”

7 3. Most actual firefighting is done by CalFire.

8 4. During plaintiff’s tenure on the Board of Directed of HFPD,
9 he and others attempted to impose new policies and procedures to account
10 for the unauthorized use of HFPD equipment and vehicles for personal
gain. Plaintiff and others also sought to acquire new land and facilities for
the benefit of HFPD.

11 5. The HFPD “firehouse” is ramshackle, has dirt floors, no
12 running water, and has been condemned as unsafe.

13 6. As part of the “clean-up,” plaintiff and others investigated
14 numerous incidents of misuse, theft, and falsification of records by Adria
Kirk-Buckley, then a firefighter, and Lee Buckley, then the acting fire
15 chief. As part of this investigation, plaintiff made detailed reports to the
Siskiyou County Sheriff’s Department.

16 7. Plaintiff alleges that the Buckleys surrendered “a filing
17 cabinet, public record, radios, and other HFPD equipment to the Siskiyou
County Sheriff.” According to plaintiff, “[t]hat property was retrieved
from the Sheriff by the Plaintiff on behalf of the HFPD.”

18 8. The Buckleys were found “responsible for some of the
19 charges” after “noticed hearing.” According to plaintiff, “the Board also
made multiple findings and determinations concerning all three defendants
20 [defendant Hott and the Buckleys].”

21 9. In the wake of these findings, the HFPD bylaws were
22 modified over the course of the next “year or so.” These modifications
provided for “rigid accountability and tracking requirements. . . .”

23 10. During the time the bylaws were being modified, plaintiff
24 resigned as a member of the board “in order to undertake more direct
administrative duties regarding the District. . . .” Plaintiff later accepted
25 the position of “Administrator/General Manager,” a position created to
streamline procedures for the HFPD. The duties, authority, and limitations
26 on this position were outlined in an amendment to the HFPD bylaws.

ECF No. 23, pgs. 4-5

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1 The “others” referenced by plaintiff include Kimberly Olson and Peter Harrell,
2 see id. at 10, both of whom have been frequent pro se litigants in this court. In particular, with
3 regard to Olson and Harrell, plaintiff alleges:

4 Plaintiff alleges that each act complained of herein by the HFPD,
5 the Board Defendants, and/or each and any of the other individual
6 Defendants (as applicable) was undertaken by them in furtherance of,
7 and/or pursuant to, a policy, decision, custom, or practice either officially,
8 or unofficially, promulgated, adopted, and/or ratified by the Board
9 Defendants (and thus the HFPD), and was executed using the authority
10 granted to the Board Defendants under State Law. Further, each of the
11 Defendants receive (often multiple) notices from Plaintiff, Kimberly Olson,
12 Peter Harrell, and other members of the public, that their conduct as set
13 forth herein was illegal and violated statutory and Constitutional rights, and
14 yet they all continued to act wrongfully. . . .

15 ECF No. 23, pg. 10.

16 According to plaintiff, the events giving rise to his claims began in December
17 2015. See id. at 4. Specifically, plaintiff alleges the following:

18 1. The Board Defendants took office on December 4, 2015.
19 Outside any noticed hearing, their first order of business named Lee
20 Buckley the Acting Chief of HFPD.

21 2. Lee Buckley began handing out radios and other HFPD
22 equipment to “assorted persons and friends” of Adria Kirk-Buckley and
23 Lee Buckley “without requiring signatures, logs, other accountability
24 mechanisms, nor compliance with the relevant portions of the HFPD
25 Bylaws. . . .” Plaintiff also claims the HFPD board “permitted and
26 encouraged the driving of various uncertified, unlicensed, and uninsured
27 HFPD vehicles. . . .”

28 3. Shortly thereafter, the board took actions to quash
applications to the BLM for new land and a new firehouse “and took a
series of (ongoing) various actions” in violation of the HFPD bylaws and
other applicable laws. Plaintiff also alleges the Board Defendants retaliated
against him for the purpose of terminating him from his position as
Administrator/General Manager.

 4. Plaintiff alleges “[t]he most egregious violation of the
Bylaws, due process, and right to petition of Plaintiff, and those similarly
situated, however, has been the repeated attempts by the Board Defendants
to revoke the authority granted to the electors of the District to control by
direct vote certain portions of the Bylaws and the anti-corrupt provisions
found therein.”

Id. at 5-6.

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1 Plaintiff alleges the Board Defendants held improperly noticed meetings of the
2 HFPD board in December 2015, January 2016, and February 2016. See id. at 6. According to
3 plaintiff, at these meetings, and “at several held thereafter,” the Board Defendants “attempted
4 to disenfranchise, and interfere with, the right to vote of Plaintiff, and each elector within the
5 HFPD boundaries by modifying, revoking, without voter approval, certain provisions of the
6 HFPD Bylaws which specify that they may not be revoked or altered without approval by the
7 voters of the District.” ECF No. 23, pg. 7. Plaintiff further alleges the foregoing was
8 accomplished by way of a conspiracy among defendants to deprive him of his civil rights. See
9 id. at 8-10.

11 II. DISCUSSION

12 Defendants seek judgment on the pleadings pursuant to Federal Rule of Civil
13 Procedure 12(c). Judgment on the pleadings is appropriate when, even if all the allegations in
14 the pleadings under attack are true, the moving party is entitled to judgment as a matter of law.
15 See Honey v. Distelrath, 195 F.3d 531, 532-33 (9th Cir. 1999). Motions for judgment on the
16 pleadings are evaluated under the same standards as motions to dismiss pursuant to Rule
17 12(b)(6). See Dworkin v. Hustler Magazine, Inc., 867 F.2d 1188, 1192 (9th Cir. 1989).

18 In considering a Rule 13(b)(6) motion to dismiss, the court must accept all
19 allegations of material fact in the complaint as true. See Erickson v. Pardus, 551 U.S. 89, 93-94
20 (2007). The court must also construe the alleged facts in the light most favorable to the plaintiff.
21 See Scheuer v. Rhodes, 416 U.S. 232, 236 (1974); see also Hosp. Bldg. Co. v. Rex Hosp.
22 Trustees, 425 U.S. 738, 740 (1976); Barnett v. Centoni, 31 F.3d 813, 816 (9th Cir. 1994) (per
23 curiam). All ambiguities or doubts must also be resolved in the plaintiff's favor. See Jenkins v.
24 McKeithen, 395 U.S. 411, 421 (1969). However, legally conclusory statements, not supported by
25 actual factual allegations, need not be accepted. See Ashcroft v. Iqbal, 129 S. Ct. 1937, 1949-50
26 (2009). In addition, pro se pleadings are held to a less stringent standard than those drafted by
27 lawyers. See Haines v. Kerner, 404 U.S. 519, 520 (1972).

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1 The court generally may not consider materials outside the complaint and
2 pleadings when deciding a Rule 12(b)(6) motion. See Cooper v. Pickett, 137 F.3d 616, 622 (9th
3 Cir. 1998); Branch v. Tunnell, 14 F.3d 449, 453 (9th Cir. 1994). The court may, however,
4 consider: (1) documents whose contents are alleged in or attached to the complaint and whose
5 authenticity no party questions, see Branch, 14 F.3d at 454; (2) documents whose authenticity is
6 not in question, and upon which the complaint necessarily relies, but which are not attached to the
7 complaint, see Lee v. City of Los Angeles, 250 F.3d 668, 688 (9th Cir. 2001); and (3) documents
8 and materials of which the court may take judicial notice, see Barron v. Reich, 13 F.3d 1370,
9 1377 (9th Cir. 1994).

10 Finally, leave to amend must be granted “[u]nless it is absolutely clear that no
11 amendment can cure the defects.” Lucas v. Dep’t of Corr., 66 F.3d 245, 248 (9th Cir. 1995) (per
12 curiam); see also Lopez v. Smith, 203 F.3d 1122, 1126 (9th Cir. 2000) (en banc).

13 **A. Federal Claims**

14 As outlined above, plaintiff alleges his nine federal claims arise under the First
15 Amendment, the Fourth Amendment, the Fourteenth Amendment, 42 U.S.C. §§ 1983, 1985,
16 1986, and 1988, as well as the Fair Labor Standard Act, 18 U.S.C. §§ 1513(e) and 1846. See
17 ECF No. 23 at 2. Defendants argue they are entitled to judgment on the pleadings as to each
18 claim.

19 1. Claim I

20 Plaintiff alleges defendants violated his rights under the First Amendment to
21 freedom of speech and to petition the government for redress of grievances. See id. at 13-15.
22 Citing Eng v. Cooley, 552 F.3d 1062 (9th Cir. 2009), Connick v. Myers, 461 U.S. 138 (1983),
23 and Coomes v. Edmonds Sch. Dist. No. 15, 816 F.3d 1255 (9th Cir. 2015), defendants contend
24 they are entitled to judgment on the pleadings on this claim because “Plaintiff explicitly
25 alleges that his speech activity was in [sic] conducted within the course and scope of his duties
26 as a public official.” ECF No. 31-1, pg. 3.

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1 Defendants' argument is unpersuasive as to Claim I. At the outset, defendants
2 misstate the nature of plaintiff's claim. According to defendants: "Plaintiff alleges that he was
3 retaliated against by the Defendants for exercising his First Amendment rights of speech and
4 petition." ECF No. 31-1, pg. 3. In Claim I, plaintiff does not, however, allege retaliation as a
5 basis of his First Amendment claim. Rather, plaintiff alleges defendants' conduct violated his
6 right to petition the government for redress. Contrary to the premise of defendants' argument,
7 Claim I is about how defendants stifled plaintiff's First Amendment petition rights, whatever
8 he may have said or wanted to say, not about anything plaintiff actually said, in the course of
9 his public employment or not.

10 Even if Claim I concerned what plaintiff actually said, the court does not agree
11 that the pleadings are conclusive as to the motivation of plaintiff's speech. According to
12 defendants, plaintiff admits he was engaged in speech activity as a public official. See ECF
13 No. 31-1, pg. 3. In support of this contention, defendants cite to footnote 32 of plaintiff's first
14 amended complaint wherein plaintiff states: "As a public official and public employee,
15 Plaintiff has a duty to interact and express his views in service to the HFPD constituents and
16 the public good." See ECF No. 23, pg. 15, n 32. While plaintiff believes he has a duty as a
17 public official, this does not preclude that plaintiff rightfully believes he also has rights as a
18 private citizen. In this regard, the first amended complaint is replete with allegations from
19 which the court can reasonably infer that plaintiff's allegations in Claim I derive from the
20 latter and not the former.

21 Defendants' motion for judgment on the pleadings should be denied as to Claim
22 I.

23 2. Claim II

24 In Claim II, plaintiff alleges violation of his rights to due process. See ECF No.
25 23, pgs. 15-18. According to plaintiff, he was effectively shut-out of HFPD board business
26 even though he was a public official of the board. See id. at 16. He also claims defendants'
27 conduct impeded his duties as the Administrator/General Manager of HFPD. See id. Plaintiff
28 alleges he was denied "due process and equal protection" relating to "adverse administrative

1 hearings and actions against him. . . .” Id. Plaintiff claims the “unlawful seizure” of his
2 authority as a public employee. Id. at 17. According to plaintiff, defendants’ conduct has also
3 resulted in damage with respect to the “marketability of his interest in real property. . . .” Id.

4 Citing Wright v. Riverland, 219 F.3d 905 (9th Cir. 2000), defendants contend
5 plaintiff cannot sustain any due process claims because he has not alleged deprivation of a
6 property interest. See ECF No. 31-1, pg. 4. The court agrees. As to the marketability of
7 plaintiff’s property, government action which reduces the value of property, as opposed to
8 action which “takes” property or renders it valueless, is not actionable. As to plaintiff’s
9 employment as HPFD’s Administrator/General Manager, plaintiff cannot sustain a due process
10 claim to the extent he served on a volunteer basis.

11 The court also notes that, in addition to the property interests discussed above,
12 plaintiff generally alleges deprivation of a liberty interest in that he claims he was essentially
13 shut-out of participation, whether as a public official or as a private citizen to the extent
14 plaintiff claims proper public notice of meetings was not provided. While such claims may be
15 subsumed in plaintiff’s First Amendment petition claim discussed above, it is possible plaintiff
16 may be able to amend to allege additional facts sufficient to establish an independent liberty
17 interest in support of his due process claim. Plaintiff should be granted leave to amend as to
18 Claim II.

19 3. Claim III

20 In Claim III, plaintiff alleges defendants’ conduct deprived him the right to
21 vote, in violation of the First Amendment and in violation of his due process rights under the
22 Fourteenth Amendment. See ECF No. 23, pgs. 18-20. According to plaintiff, defendants
23 disenfranchised him by changing provisions in the HPFD bylaws without voter approval that
24 required voter approval to change. See id. Without citing any authority, defendants contend
25 plaintiff cannot maintain an action for relief under § 1983 based on alleged changes in local
26 elections. See ECF No. 31-1, pg. 5. Citing Bogan v. Scott-Harris, 523 U.S. 44, 49 (1998),
27 defendants also argue local legislators are immune from suit based on legislative activity, such
28 as changing HPFD bylaws.

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Defendants’ arguments are not persuasive. First, plaintiff’s allegations do not challenge changes to the election laws. Instead, plaintiff contends the Board Defendants improperly altered HPFD’s bylaws without voter approval. Second, the court does not accept that improperly changing HFPD’s bylaws without voter approval constitutes permissible legislative activity for which defendants would enjoy immunity from suit.

Defendants’ motion for judgment on the pleadings should be denied as to Claim III.

4. Claim IV

In Claim IV, plaintiff contends defendants engaged in a conspiracy to deprive him of his right to vote, in violation of 42 U.S.C. § 1985. See ECF No. 23, pgs. 20-21. Defendants argue plaintiff cannot maintain a conspiracy claim under § 1985 because he does not allege the deprivation was accomplished by force, fear, or intimidation. See ECF No. 31-1, pg. 5. Defendants’ argument is persuasive. Under § 1985(c), liability exists where two or more people “conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States.” In this case, plaintiff alleges he was deprived the right to vote by improper changes to HFPD’s bylaws, not by force, intimidation, or threat. Moreover, plaintiff does not allege we was denied the right to vote with respect to an election for President, Vice President, Senator, or Member of the House of Representatives.

Defendants’ motion for judgment on the pleadings should be granted as to Claim IV.

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1 5. Claim V

2 In Claim V, plaintiff alleges defendants violated his rights to due process, equal
3 protection, free speech and petition, and liberty. See ECF No. 23, pgs. 21-22. In particular,
4 plaintiff claims defendants' conduct was retaliatory. See id. at 22. Defendants renew their
5 argument that they cannot be liable because plaintiff's speech was made in the course and
6 scope of his employment as a public official. See ECF No. 31-1, pg. 6. Defendants also argue
7 plaintiff's allegation that retaliation may be presumed based on the short time span between his
8 protected speech and defendants' adverse conduct, particularly that conduct alleged with
9 respect to termination of plaintiff's position as Administrator/ General Manager of HFPD, is
10 insufficient. See id. According to defendants, it is plaintiff's burden to prove protected
11 activity was a substantial and motivating factor in the adverse action. See id.

12 Defendants' first argument is unpersuasive because, as discussed above, it is
13 reasonable to infer from the totality of plaintiff's allegations that his protected speech was
14 made in his capacity as a private citizen as well as pursuant to a duty he believed he owed the
15 public arising from his official capacity. Defendants' second argument is unpersuasive
16 because, while plaintiff has the ultimate burden of providing sufficient evidence to prove he
17 suffered adverse action as a result of his protected activity, at the pleading stage of the case
18 where the court must presume plaintiff's allegations are true, plaintiff has met his burden of
19 notice pleading under Federal Rule of Civil Procedure 8. Specifically, the court must accept as
20 true that plaintiff began suffering adverse actions within a short time of his protected speech
21 and it is reasonable to infer from the short time period between the two that the adverse action
22 was the result of his protected speech.

23 Defendants' motion for judgment on the pleadings should be denied as to Claim
24 V.

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1 6. Claim VI

2 In Claim VI, plaintiff alleges retaliation in violation of Title VII of the Civil
3 Rights Act of 1964. See ECF No. 23, pgs. 22-23. Defendants argue Title VII is inapplicable.
4 See ECF No. 31-1, pg. 6. As defendants note, Title VII only provides a right of action for
5 retaliation against employees who oppose employment discrimination practices forbidden by
6 Title VII. See 42 U.S.C. § 2000e-3(a). Defendants' argument is persuasive because plaintiff
7 does not allege he opposed discriminatory employment practices of his employer. Defendants'
8 motion for judgment on the pleadings should be granted as to Claim VI.

9 7. Claim VII

10 In Claim VII, plaintiff alleges defendants violated 42 U.S.C. § 300j-9(i). See
11 ECF No. 23, pgs. 23-24. Defendants argue 42 U.S.C. § 300j-9(i) is inapplicable to this action.
12 See ECF No. 31-1, pg. 7. Under 42 U.S.C. § 300j-9(i), a right of action exists for retaliation
13 with respect to actions to enforce clean drinking water regulations. Defendants' argument that
14 this provision is inapplicable to the instant case is persuasive because plaintiff does not allege
15 he commenced any action relating to enforcement of clean drinking water regulations.
16 Defendants' motion for judgment on the pleadings should be granted as to Claim VII.

17 8. Claim VIII

18 In Claim VIII, plaintiff alleges defendants violated 18 U.S.C. § 1513(e). See
19 ECF No. 23, pg. 24. Defendants also argue this provision is inapplicable because it provides
20 for criminal liability and not a private civil right of action. See ECF No. 31-1, pg. 7. This
21 argument is persuasive and defendants' motion for judgment on the pleading should be granted
22 as to Claim VIII.

23 9. Claim IX

24 In Claim IX, plaintiff again contends defendants engaged in a conspiracy in
25 violation of 42 U.S.C. § 1985. See ECF No. 23, pgs. 25-26. Specifically, plaintiff alleges
26 defendants violated § 1985 by conspiring to interfere with his position as Administrator/
27 General Manager of HFPD. See id. at 25. Under 42 U.S.C. § 1985(1), liability exists for a
28 conspiracy to interfere with a federal officer's duties by force, intimidation, or threat. As

1 defendants note, plaintiff does not allege force, intimidation, or threat, nor does plaintiff allege
2 he was a federal officer. See ECF No. 31-1, pg. 7. Defendants' motion for judgment on the
3 pleadings should be granted as to Claim IX.

4 **B. State Law Claims**

5 Because plaintiff should be granted leave to amend as to his federal claims,
6 consideration of defendants' arguments concerning plaintiff's state law claims is premature to
7 the extent those claims are not contained in a further amended complaint. Defendants will
8 have an opportunity to challenge any state law claims raised in a further amended complaint
9 should they elect to do so.

10
11 **III. CONCLUSION**

12 Based on the foregoing, the undersigned recommends that:

- 13 1. Defendants' motion for judgment on the pleadings (ECF No. 31) be granted
14 in part and denied in part;
- 15 2. Plaintiff's first amended complaint be dismissed with leave to amend; and
- 16 3. Plaintiff's motion to strike defendants' answer to the first amended
17 complaint (ECF No. 30) be denied as moot and without prejudice to challenging defendants'
18 answer to any second amended complaint.

19 These findings and recommendations are submitted to the United States District
20 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days
21 after being served with these findings and recommendations, any party may file written objections
22 with the court. Responses to objections shall be filed within 14 days after service of objections.
23 Failure to file objections within the specified time may waive the right to appeal. See Martinez v.
24 Ylst, 951 F.2d 1153 (9th Cir. 1991).

25
26 Dated: October 1, 2019



27 DENNIS M. COTA
28 UNITED STATES MAGISTRATE JUDGE