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9	UNITED STATES DISTRICT COURT
10	EASTERN DISTRICT OF CALIFORNIA
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13	LAWRENCE SPIES, SR., et al.; CIV. NO. 2:16-02232 WBS GGH
14	Plaintiffs, <u>ORDER RE: MOTION TO DISMISS</u>
15	v.
16	EL DORADO COUNTY, et al.;
17	Defendants.
18	00000
19	Before the court is the motion defendants Dr. John
20	Skratt, Dr. Alexis Lieser, pursuant to Federal Rule of Civil
21	Procedure 12(b)(6), to dismiss plaintiffs' first and third causes
22	of action for Eighth Amendment and substantive due process
23	violations under 42 U.S.C. § 1983 against them because the
24	Complaint does not allege that they are state actors. (See
25	Defs.' Mot. 6:21-7:3 (Docket No. 30-1)). ¹
26	$\frac{1}{1}$ Dr. Skratt and Dr. Lieser also moved to dismiss the
27	medical malpractice claim for lack of subject matter
28	jurisdiction. (<u>See</u> Defs.' Mot. 9:1-10:4.) However, they withdrew this portion of the motion in light of the court's
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The Complaint contains only conclusory allegations that 1 Dr. Skratt and Dr. Lieser were "acting within the course and 2 3 scope of th[eir] employment and under color of law." (Compl. $\P\P$ 4 27-28.) Plaintiffs fail to include any factual allegations that they were state actors and rely solely on these conclusory 5 See Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) 6 statements. 7 ("Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice."). 8 Moreover, in light of information that plaintiffs received from 9 10 defendant El Dorado County, plaintiffs do not oppose defendants' 11 motion to dismiss their § 1983 claims against Dr. Skratt and Dr. 12 Lieser. (Pls.' Opp'n 7:4-5 (Docket No. 32).) 13 IT IS THEREFORE ORDERED that the motion to dismiss plaintiffs' first and third causes of action for Eighth Amendment 14 15 and substantive due process violations under 42 U.S.C. § 1983 as 16 against Dr. Skratt and Dr. Lieser be, and the same hereby is, 17 GRANTED. 18 Dated: January 17, 2017 12 shall 19 WILLIAM B. SHUBB 20 UNITED STATES DISTRICT JUDGE 21 2.2 23 24 25 26 previous order finding there was supplemental jurisdiction over 27 the medical malpractice claim. (See Defs.' Reply 2:1-5 (Docket 28 No. 33).) 2