

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	2:16-cv-2913-GHW	Date	November 13, 2017
Title	<i>Valerie J. Stacker, et al. v. California Department of Corrections and Rehabilitation, et al.</i>		

Present: The Honorable **GEORGE H. WU, UNITED STATES DISTRICT JUDGE**

Javier Gonzalez

None Present

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

None Present

None Present

PROCEEDINGS: IN CHAMBERS - RULING ON MOTION TO DISMISS CORRECTED FIRST AMENDED COMPLAINT BY DEFENDANTS CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION AND C. PFEIFFER [23]

The Court adopts its Tentative Ruling (provided to counsel today) as its final decision on Defendants Department of Corrections and Rehabilitation and Christian Pfeiffer's Motion to Dismiss, with the following additional comments. Plaintiff, who has the burden on the issue, has failed to come forward with clearly established law in conformity with the tailoring required by cases such as the Supreme Court's *Brosseau* decision (cited in the Tentative Ruling), meaning she cannot survive the qualified immunity argument raised in the motion. In addition, Plaintiff has failed to state a claim against Pfeiffer in his individual capacity. Although given the chance to provide an offer-of-proof as to how she might amend to improve those allegations, Plaintiff's counsel's statements did not relate to Pfeiffer and exhibited merely a hope that discovery might uncover some unspecified facts. A plaintiff does not first get to take discovery in order to later be able to state a claim against a defendant.

Initials of Preparer JG