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7 Attorneys for Defendants COUNTY OF
 SACRAMENTO, McCLOUD STEWART, JACOB
 8 PRUE, RYAN DRUMMOND

9 **UNITED STATES DISTRICT COURT**
 10 **EASTERN DISTRICT OF CALIFORNIA**

12 STEVE WOLNIAK, an individual,
 13 Plaintiff,

14 vs.

15 COUNTY OF SACRAMENTO, a public
 governmental entity, MCCLOUD
 16 STEWART, an individual and in his
 capacity as a Deputy Sheriff of the County
 17 of Sacramento, JACOB PRUE, an
 individual and in his capacity as a Deputy
 18 Sheriff of the County of Sacramento,
 RYAN DRUMMOND, an individual and
 19 in his capacity as a Deputy Sheriff of the
 County of Sacramento, and DOES 1
 20 through 50, inclusive,

21 Defendants.

Case No.: 2:17-cv-01286 KJM AC

**STIPULATION TO DISMISS WITHOUT
 PREJUDICE THE SECOND, FOURTH,
 AND FIFTH CAUSES OF ACTION AND
 THAT THE SEVENTH, EIGHTH AND
 NINTH CAUSES OF ACTION ASSERT,
 WITH RESPECT TO THE COUNTY, ONLY
 VICARIOUS LIABILITY; ORDER
 THEREON**

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WHEREAS, on June 23, 2017, Plaintiff filed a Complaint for Damages;

WHEREAS, Defendants’ response to the Complaint is due to be filed August 14, 2017, pursuant to the parties’ stipulation to extend time (Doc. 8);

WHEREAS, Defendants believe it is unclear whether the Seventh, Eighth and Ninth Claims each intend to allege a direct liability state law claim against the County;

WHEREAS, Defendants indicated to Plaintiff their intention to move to dismiss certain claims in the Complaint, including any direct liability state law claims against the County;

WHEREAS, pursuant to the Court’s standing order of June 23, 2017 (Doc. 4-1), the parties met and conferred regarding the grounds for Defendants’ motion and resolved some of the issues to be raised by the motion;

WHEREAS, the parties wish to limit law and motion practice where possible;

THEREFORE the parties hereby stipulate, by and through their counsel of record, as follows:

1. Plaintiff’s Second Claim alleging violation of Due Process for excessive force under 42 U.S.C. Section 1983, shall be dismissed without prejudice;

2. Plaintiff’s Fourth Claim alleging municipal liability for failure to train / inadequate training under 42 U.S.C. Section 1983, shall be dismissed without prejudice;

3. Plaintiff’s Fifth Claim alleging municipal liability for unconstitutional custom, practice, or policy under 42 U.S.C. Section 1983, shall be dismissed without prejudice;

4. Plaintiff’s Seventh Claim alleges negligence against the individual defendants, public employees (Government Code §820(a)), and vicarious liability for damages resulting from said alleged negligence against the County (Government Code §815.2);

5. Plaintiff’s Eighth Claim alleges intentional infliction of emotional distress against the individual defendants, public employees (Government Code §820(a)), and vicarious liability, for damages resulting therefrom against the County (Government Code §815.2); and

6. Plaintiff’s Ninth Claim alleges negligent infliction of emotional distress against the individual defendants, public employees (Government Code §820(a)), and vicarious liability for

1 damages resulting therefrom against the County (Government Code §815.2);

2 7. Defendants may file a motion to dismiss with respect to the issues that were not
3 resolved by way of the meet-and-confer process, no later than the already agreed upon date of
4 August 14, 2017.

5 IT IS SO STIPULATED.

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7 DATE: August 8, 2017

CREGGER & CHALFANT LLP

8
9 /s/ Nicole C. Webster

10 NICOLE C. WEBSTER

11 Attorneys for Defendants COUNTY OF
12 SACRAMENTO, McCLOUD STEWART, JACOB
13 PRUE, RYAN DRUMMOND

14
15 DATE: August 8, 2017

LAW OFFICE OF SOHAILA SAGHEB

16
17 /s/ Sohaila Sagheb

18 SOHAILA SAGHEB, SBN 144202

19 Attorneys for Plaintiff STEVE WOLNIAK

20
21 **ORDER**

22 After considering the Stipulation by and between the parties through their counsel of
23 record, IT IS HEREBY ORDERED THAT:

24 1. The Second Cause of Action alleging violation of Due Process for excessive force
25 under 42 U.S.C. Section 1983, shall be dismissed without prejudice;

26 2. The Fourth Claim alleging municipal liability for failure to train / inadequate
27 training under 42 U.S.C. Section 1983, shall be dismissed without prejudice;

28 3. Fifth Claim alleging municipal liability for unconstitutional custom, practice, or
policy under 42 U.S.C. Section 1983, shall be dismissed without prejudice;

4. The Seventh Claim alleges negligence against the individual defendants, public

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employees (Government Code §820(a)), and vicarious liability for damages resulting from said alleged negligence against the County (Government Code §815.2);

5. The Eighth Claim alleges intentional infliction of emotional distress against the individual defendants, public employees (Government Code §820(a)), and vicarious liability, for damages resulting therefrom against the County (Government Code §815.2); and

6. The Ninth Claim alleges negligent infliction of emotional distress against the individual defendants, public employees (Government Code §820(a)), and vicarious liability for damages resulting therefrom against the County (Government Code §815.2); and

7. Defendants may file a motion to dismiss with respect to any remaining causes of action, no later than August 14, 2017.

IT IS SO ORDERED.

DATE: August 11, 2017.


UNITED STATES DISTRICT JUDGE