



1 Previously, this Court dismissed Plaintiff’s civil rights claims—excessive force and  
2 a Monell claim for municipal liability—and certain state law claims with leave to amend.  
3 Mem. and Order, ECF No. 56. In response, the Plaintiff filed the Fourth Amended  
4 Complaint (“Complaint”) in a timely fashion. Pls. Fourth Am. Compl., ECF No. 57. The  
5 Complaint alleges ten causes of action—various civil rights claims encompassed within a  
6 single count for violation of 42 U.S.C. § 1983 and nine state law claims. However, the  
7 Complaint mainly re-alleged the allegations contained in its predecessor, the Third  
8 Amended Complaint, without adding new factual allegations, save those supporting a  
9 constitutional claim for false arrest.

10 Defendants then filed the present Motion to Dismiss Plaintiffs’ nine state law  
11 claims, and the civil rights claims to the extent they do not relate to false arrest. While  
12 conceding that the constitutional false arrest claim is “facially valid,” (Defs. Mem. Supp.  
13 Mot. to Dismiss, 6:7–6:20, ECF No. 60) Defendants maintain that none of the state law  
14 claims can be maintained because Plaintiff’s Complaint still does not show he complied  
15 with the requirements for presenting a tort claim as mandated by the California  
16 Government Claims Act. Id. at 7:20–9:6. Additionally, with respect to Plaintiff’s civil  
17 rights claims, Defendants assert that Plaintiff failed to allege any new facts to remedy the  
18 Monell claim’s deficiencies as identified in the Court’s previous Order. Id. at 7:4–7:8.

19 Plaintiffs, in meeting and conferring with Defendants in the wake of their Motion,  
20 have agreed to voluntarily dismiss all claims except the first cause of action to the extent  
21 in pertains to false arrest. Pls. Opp’n to Defs. Mot. to Dismiss, ECF No. 66. This Court  
22 construes this request as a having been made pursuant to Federal Rule of Civil  
23 Procedure, Rule 15. Defendants corroborate the Plaintiff’s offer in this respect and have  
24 made an identical request for dismissal. Defs. Reply to Pls. Opp’n, ECF No. 67.

25 Since both parties agree to which claims should be dismissed, no further analysis  
26 of Plaintiff’s Complaint and Defendants’ arguments for dismissal is necessary. Thus, this  
27 Court DISMISSES all nine state law claims (the Second through Tenth Causes of  
28 Action), the claim for municipal liability under Monell against Defendant City of Lodi as

1 stated in the First Cause of Action, and any other civil rights claim asserted within the  
2 First Cause of Action with the exception of false arrest.

3 Defendant Hitchcock is hereby ordered to file an answer to Plaintiff's remaining  
4 constitutional false arrest claim pursuant to 42 U.S.C. § 1983, as stated in the First  
5 Cause of Action, within thirty days of the electronic filing of this Order.

6 IT IS SO ORDERED.

7 Dated: March 29, 2021

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10 MORRISON C. ENGLAND, JR.  
11 SENIOR UNITED STATES DISTRICT JUDGE  
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