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8	UNITED STATES DISTRICT COURT		
9	FOR THE EASTERN DISTRICT OF CALIFORNIA		
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11	VICTOR HUGO BOTELLO,	No. 2:18-cv-162-TLN-EFB P	
12	Plaintiff,		
13	V.	ORDER AND FINDINGS AND RECOMMENDATIONS	
14	S. HANLON, et al.,	RECOMMENDATIONS	
15	Defendants.		
16			
17	Plaintiff is a state prisoner proceeding through counsel and in forma pauperis in an action		
18	brought under 42 U.S.C. § 1983. After the dismissal of his amended complaint pursuant to 28		
19	U.S.C. § 1915A, he has filed a second amended complaint (ECF No. 19), which the court must		
20	now screen pursuant to section 1915A.		
21	Congress mandates that district courts engage in a preliminary screening of cases in which		
22	prisoners seek redress from a governmental entity or officer or employee of a governmental		
23	entity. 28 U.S.C. § 1915A(a). The court must identify cognizable claims or dismiss the		
24	complaint, or any portion of the complaint, if the complaint "is frivolous, malicious, or fails to		
25	state a claim upon which relief may be granted," or "seeks monetary relief from a defendant who		
26	is immune from such relief." Id. § 1915A(b).		
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1	The court has reviewed plaintiff's second amended complaint and for the limited purposes		
2	of § 1915A screening finds that it states potentially cognizable negligence and Eighth		
3	Amendment deliberate indifference to safety claims against defendants Hanlon and Jimenez. ¹ See		
4	ECF No. 19 (alleging that Hanlon fabricated plaintiff's statement, causing plaintiff to be labelled		
5	and attacked as a snitch, and that Jimenez was aware of the fabrication and refused to fix it).		
6	Plaintiff also alleges that Warden Arnold "covered up" Hanlon's fabrication by "declaring that no		
7	policy was violated." Id. at 4. Plaintiff fails to articulate how Arnold's declaration in this regard		
8	amounted to a violation of his rights. And "[t]here is no respondeat superior liability under		
9	section 1983." Taylor v List, 880 F.2d 1040, 1045 (9th Cir. 1989). Plaintiff, who proceeds		
10	through counsel, has already had an opportunity to amend his claim against Warden Arnold. The		
11	allegations against Arnold in the second amended complaint do not materially differ from those in		
12	the prior complaint. Accordingly, the court finds that further leave to amend would be futile.		
13	Accordingly, it hereby is ordered that:		
14	1. Service is appropriate for defendants Hanlon and Jimenez.		
15	2. The Clerk of the Court shall send plaintiff two USM-285 forms, one summons,		
16	an instruction sheet and one copy of the August 16, 2018 second amended		
17	complaint.		
18	3. Within 30 days from service of this order, plaintiff shall complete the attached		
19	Notice of Submission of Documents and submit it to the court with the		
20	completed summons and USM-285 forms and three copies of the endorsed		
21	complaint.		
22	4. Upon receipt of the necessary materials, the court will direct the United States		
23	Marshal to serve defendants pursuant to Federal Rule of Civil Procedure 4		
24	without payment of costs. Failure to comply with this order may result in this		
25	action being dismissed.		
26			
27	¹ Supervisors, such as Lt. Jimenez, are liable for constitutional violations of their subordinates if they know of the violations and fail to act to prevent them. <i>See Taylor v. List</i> , 880		
28	F.2d 1040, at 1045 (9th Cir. 1989).		
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1	Further, IT IS HEREBY RECOMMENDED that defendant Warden Arnold be dismissed
2	from this action.
2	These findings and recommon dations are submitted to the United States District Judge

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days after being served with these findings and recommendations, any party may file written objections with the court and serve a copy on all parties. Such a document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections within the specified time may waive the right to appeal the District Court's order. *Turner v.* Duncan, 158 F.3d 449, 455 (9th Cir. 1998); Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991). DATED: November 26, 2018. Rib m EDMUND F. BRENNAN UNITED STATES MAGISTRATE JUDGE

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8	UNITED STATES DISTRICT COURT		
9	FOR THE EASTERN DISTRICT OF CALIFORNIA		
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11	VICTOR HUGO BOTELLO,	No. 2:18-cv-162-TLN-EFB P	
12	Plaintiff,		
13	v.	NOTICE OF SUBMISSION OF	
14	S. HANLON, et al.,	DOCUMENTS	
15	Defendants.		
16			
17	Plaintiff hereby submits the following documents in compliance with the court's		
18	Screening Order:		
19	_1 completed summons form		
20	completed forms USM-285		
21	copies of the endorsed August 16, 2018 second amended complaint		
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23			
24		Plaintiff	
25	Dated:		
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