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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

THOMAS SCHMITZ, et al.,
Plaintiffs,
v.
A. ASMAN, et al.,
Defendants.

No. 2:20-cv-00195-JAM-CKD PS
ORDER
(ECF No. 85)

On November 16, 2020, the magistrate judge filed findings and recommendations (ECF No. 85), which were served on the parties and which contained notice that any objections to the findings and recommendations were to be filed within fourteen (14) days. On November 30, 2020, plaintiffs filed objections to the findings and recommendations (ECF No. 88), to which various defendants have replied (ECF Nos. 115–117) and which have been considered by the court.

This court reviews de novo those portions of the proposed findings of fact to which an objection has been made. 28 U.S.C. § 636(b)(1); McDonnell Douglas Corp. v. Commodore Business Machines, 656 F.2d 1309, 1313 (9th Cir. 1981); see also Dawson v. Marshall, 561 F.3d 930, 932 (9th Cir. 2009). As to any portion of the proposed findings of fact to which no objection has been made, the court assumes its correctness and decides the matter on the applicable law. See Orand v. United States, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge’s

1 conclusions of law are reviewed de novo. See Britt v. Simi Valley Unified School Dist., 708 F.2d
2 452, 454 (9th Cir. 1983).

3 The court has reviewed the applicable legal standards and, good cause appearing,
4 concludes that it is appropriate to adopt the findings and recommendations in full. Accordingly,
5 IT IS HEREBY ORDERED that:

- 6 1. The findings and recommendations (ECF No. 85) are ADOPTED IN FULL;
- 7 2. Defendants' motions to dismiss (ECF Nos. 63, 64) are GRANTED IN PART as follows:
 - 8 a. The motion to dismiss the First Cause of Action for deliberate indifference is
9 granted as to defendants Asman, Bradley, and Wanie, and those claims are
10 dismissed with prejudice;
 - 11 b. The motion to dismiss the Fourth Cause of Action for deprivation of familial
12 relations is granted as to defendants Asman, Bradley, and Wanie, and those claims
13 are dismissed with prejudice;
 - 14 c. The motion to dismiss the Eighth Cause of Action for negligent supervision and
15 training is granted as to all defendants named therein except Dr. C. Smith, and
16 those claims are dismissed with prejudice;
 - 17 d. The motion to dismiss the Tenth Cause of Action for negligence is granted as to all
18 moving defendants except Drs. Ashe, Rudas, and C. Smith, and those claims are
19 dismissed with prejudice;
 - 20 e. The motion to dismiss the Eleventh Cause of Action is granted, and the claims are
21 dismissed in their entirety with prejudice;
 - 22 f. The motion to dismiss the Twelfth Cause of Action for violations of California
23 Civil Code § 52.1 is granted as to all defendants named therein except Drs. Ashe,
24 DeNigris, Rudas, and C. Smith, and those claims are dismissed with prejudice;
 - 25 g. The motion to dismiss the Sixteenth Cause of Action for negligent infliction of
26 emotional distress is granted, and the claims are dismissed in their entirety with
27 prejudice; and

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h. The motion to dismiss plaintiffs’ punitive damages claim in the Ninth Cause of Action for wrongful death is granted, and those claims are dismissed with prejudice.

DATED: December 21, 2020

/s/ John A. Mendez

THE HONORABLE JOHN A. MENDEZ
UNITED STATES DISTRICT COURT JUDGE