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UNITED STATES DISTRICT COURT

Northern District of California

San Francisco Division

C.E.W., a minor, individually and as successor-in-interest for Decedent MOHAMMED SHAH, by and through his guardian ad litem VALERIE WEAVER; MOHAMMED SHAH, individually; and JANIFER SHAH, individually,	No. C 13-04516 LB
Plaintiffs,	**ORDER GRANTING DEFENDANTS' MOTION TO DISMISS AND GRANTING PLAINTIFFS' LEAVE TO FILE AND AMENDED COMPLAINT**
v.	[ECF No. 15]
CITY OF HAYWARD, a municipal corporation and DOES 1-50, inclusive; Police Officers for the CITY OF HAYWARD,	
Defendants.	

Plaintiffs filed a civil rights case involving the allegedly excessive force by Defendants against decedent Mohammed Shaw. *See* First Amended Complaint, ECF No. 14. Defendants move to dismiss, observing that claims of a decedent can be asserted only by the heirs under California Code of Civil Procedure 377.60 or by satisfying the requirements of California Code of Civil Procedure Section 377.32. *See* Motion, ECF Nos. 15 & 15-1. Plaintiffs do not dispute this standard. *See* Opposition, ECF No.17.   To cure any error, Plaintiffs propose filing an amended complaint, which they attach to their opposition. *See id.* In their reply, Defendants do not oppose the filing of the amended complaint but point out that the proposed amended complaint contains language that requires correction. Reply, ECF No. 18. Specifically, paragraphs 21 and 22 of the proposed second

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amended complaint assert that "plaintiffs" (plural) are entitled to recover wrongful death damages, and Defendants suggest that only C.E.W. (the sole heir of decedent Mohammad Shah) has standing. *See id.*

Under the circumstances, the court grants the motion to dismiss, gives Plaintiffs leave to file an amended complaint within 7 days, and directs Plaintiffs to correct any deficiencies before filing their complaint.

This disposes of ECF No. 15.

IT IS SO ORDERED.

Dated: January 22, 2014

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LAUREL BEELER
United States Magistrate Judge