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5 UNITED STATES DISTRICT COURT  
6 NORTHERN DISTRICT OF CALIFORNIA  
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8 **STEPHANY BORGES,**

9 Plaintiff,

10 v.

11 **CITY OF EUREKA, et al.,**

12 Defendants.  
13

Case No.: 15-cv-00846 YGR

**ORDER DIRECTING PLAINTIFF TO CLARIFY  
CLAIMS; CONTINUING COMPLIANCE  
HEARING**

14 The Court recently lifted a stay in this case (*see* Dkt. No. 108) based on the Ninth Circuit's  
15 *en banc* decision in *Castro v. Cty. of Los Angeles*, --F.3d.--, 2016 WL 4268955, (9th Cir. Aug. 15,  
16 2016). The Court directed the parties to file a joint proposed briefing schedule to address *Castro*'s  
17 impact on defendants' previously filed motion for summary judgment. (*Id.*) On August 23, 2016,  
18 defendants filed a proposed briefing schedule. (Dkt. No. 109.) By contrast, plaintiff takes the  
19 position that no further briefing is required because her claims arise under the Fourth Amendment  
20 while *Castro* addressed claims under the Fourteenth Amendment. (*Id.*)

21 In light of plaintiff's position (*see id.*), the Court requires clarification with respect to the  
22 claims plaintiff is prosecuting as set forth in her first amended complaint (Dkt. No. 25.) Given  
23 plaintiff's recent filing, the Court reads plaintiff's position to be a concession that she is not  
24 pursuing her claims arising under the Fourteenth Amendment's guarantee of due process. Those  
25 claims are: Claim Four, Claim Five, and Claim Six (to the extent the *Monell* claim is for violation  
26 of due process rights under the Fourteenth Amendment). Should plaintiff confirm that she is not  
27 prosecuting the claims for violation of Fourteenth Amendment due process rights, the only Section  
28 1983 causes of action remaining would be plaintiff's claims for violation of the Fourth


1 Amendment's prohibition against unreasonable searches and seizures: Claim Three and Claim Six  
2 (to the extent the *Monell* claim is for violation of only<sup>1</sup> Fourth Amendment rights).<sup>2</sup>

3 Plaintiff is therefore **ORDERED** to respond and clarify with respect to Claims Four and Five  
4 in whole, and with respect to Claim Six for violation of due process under the Fourteenth  
5 Amendment. Should plaintiff confirm she is no longer prosecuting these claims, the Court will  
6 require no further briefing in connection with the pending motion for summary judgment as *Castro*  
7 involved Fourteenth Amendment – not Fourth Amendment – claims.

8 The compliance hearing set for August 30, 2016, is **CONTINUED to Thursday, September**  
9 **8, 2016 at 9:01 a.m.** No later than September 1, 2016 at noon, plaintiff shall file either: (a) a  
10 response to the Court's construction of her claims as described above; or (b) a statement explaining  
11 her failure to comply. If compliance is complete, the parties need not appear and the compliance  
12 hearing will be taken off calendar. Telephonic appearances may be allowed if plaintiff has  
13 submitted a statement in a timely fashion. Failure to do so may result in sanctions.

14 **IT IS SO ORDERED.**

15 Date: August 29, 2016

16   
17 **YVONNE GONZALEZ ROGERS**  
18 **UNITED STATES DISTRICT COURT JUDGE**

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25 <sup>1</sup> Of course, Claim Three and Claim Six also arise under the Fourteenth Amendment insofar  
26 as the Fourteenth Amendment applies the Fourth Amendment to the States.

27 <sup>2</sup> The Court further understands that plaintiff is no longer prosecuting Claim One against  
28 the City officers based on their alleged arrest of the decedent without probable cause. Plaintiff did  
not substantively oppose defendants' motion for summary judgment on this claim.